

Strengthening Parliament's Oversight Role during International Trade Negotiations: A Grounded Theory Approach

A Research Report

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incentive to develop institutional capacity to perform oversight over this type of Executive action. This enhanced capacity will lead to more effective oversight over the Executive's involvement during international trade negotiations and thus greater accountability by the Executive to ensure that these negotiations support national strategic objectives.

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ABSTRACT

The *Constitution of the Republic of South Africa, 1996* (hereafter referred to as “the *Constitution*”), outlines the different roles and functions of the arms of government, namely the Executive, Judiciary and Legislature. In terms of international agreements, Section 231 of the *Constitution* provides the parameters within which the Executive and the Legislature are responsible for when entering into international agreements. The Executive is responsible for negotiating and signing all international agreements, which must then be approved by the National Assembly and the National Council of Provinces in order to be ratified.

Furthermore, the *Constitution* requires the Legislature to oversee the work of the Executive. In this regard, Parliament, as the representative of the people of South Africa, has a duty to ensure that even international agreements will benefit the citizenry and not undermine national objectives.

However, due to the democratic principle of separation of powers, Parliament has little control over the outcomes of the negotiations which the Executive undertakes on behalf of the nation. Signed international agreements may not always be in the national interest. In these instances, Parliament cannot alter the terms of the agreement. It can at best approve this for ratification with reservations or reject it once it has been tabled.

Several challenges arise in relation to the approval for ratification of international agreements. This is primarily related to Parliament’s capacity and the time available to consider signed agreements, and its knowledge and understanding of the content and implications of international agreements.

This study, therefore, considers how Parliament can effectively oversee developments during international trade negotiations. This is to circumvent situations where the trade agreements do not support national strategic objectives.

A grounded theory approach was used to develop a theory on how to strengthen Parliament’s oversight role during international trade negotiations. Grounded theory is a qualitative research method, which uses a mainly inductive approach. Data was gathered through conversational interviewing with a number of stakeholders such as Members of Parliament and parliamentary officials, as well as technical and nontechnical literature. These were analysed to develop key concepts or variables.

Next, a literature review was conducted to determine the parent body of knowledge within which the research study falls. This process yielded further variables. It also assisted in determining the linkages between the key concepts. Finally, I undertook a theory building process to determine the relationships between the key concepts and the key concern variable. From the analysis, this study proposes that the Executive and Members of Parliament need to understand the importance and relevance of holding the Executive accountable for its actions in relation to international trade negotiations. Once this is clearly established, there will be an

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PLAGIARISM DECLARATION

1. I know that plagiarism is wrong. Plagiarism is to use another's work and pretend that it is your own.
2. I have used a recognized convention for citation and referencing. Each significant contribution and quotation from the works of other individuals has been attributed, cited and referenced.
3. I certify that this submission is all my own work.
4. I have not allowed and will not allow anyone to copy this essay with the intention of passing it off as their own work.

Signed by candidate

Signature: Signature Removed

Date: 13 November 2016

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ABBREVIATIONS AND ACRONYMS

| | |
|--------|--|
| ATC | Announcements, Tablings and Committee Reports |
| CAR | Capability, Accountability and Responsiveness |
| DTI | Department of Trade and Industry |
| ECA | Economic Commission for Africa |
| MPs | Members of Parliament |
| NA | National Assembly |
| NCOP | National Council of Provinces |
| NEDLAC | National Economic Development and Labour Council |
| SACU | Southern African Customs Union |
| WTO | World Trade Organisation |

1 INTRODUCTION

1.1 BACKGROUND TO THE RESEARCH

1.1.1 BACKGROUND OF THE RESEARCHER

I am currently working as the content advisor to the Portfolio Committee on Trade and Industry at the Parliament of the Republic of South Africa. My role is to guide the Committee, particularly the chairperson, on strategic content matters falling within the Department of Trade and Industry's mandate. This includes drafting the Committee's strategic and annual performance plans, quality assuring Committee documents, providing strategic advice and co-ordinating inputs received by the Committee. (Parliament of the Republic of South Africa, n.d.)

Two other key team members assist me. These are the committee secretary who provides procedural advice to the Committee, liaises with stakeholders on behalf of the Committee and drafts committee documents such as minutes and reports; and the researcher who drafts briefing documents on issues before the Committee.

The Department over which the Committee does oversight covers a number of areas including negotiating and implementing trade agreements, promoting and protecting investment and promoting exports. This is accompanied by the task of facilitating industrial development within an enabling regulatory environment for business that simultaneously protects consumers from unfair business practices.

1.1.2 THE RESEARCH CONTEXT

Constitutional mandates

The *Constitution of the Republic of South Africa*, 1996 (hereafter referred to as "the *Constitution*"), establishes three arms of government that act independently from each other, namely the Legislature¹, the Executive, and the Judiciary. Each arms' roles and functions are outlined in the *Constitution* and these are embedded within the concept of separation of powers. The concept of separation of powers requires that the arms of government be independent of one another, while having equal powers. Therefore, no arm of government should have more power than another arm of government or exert its power on another.

The Legislature includes the national Parliament and the provincial legislatures. Parliament consists of two Houses, namely the National Assembly (NA), which has between 350 and 400 seats (Section 46 of the

¹ The terms "legislature" or "Legislature" and "parliament" or "Parliament" are used interchangeably throughout this dissertation. In the South African case, "Parliament" refers to the national Legislature as opposed to the provincial legislatures or local municipal councils.

Constitution), and the National Council of Provinces (NCOP), which has 54 permanent delegates nominated from provincial legislatures and 36 special delegates (Section 60 of the *Constitution*). These seats are assigned in a weighted manner to political parties that have been elected through national and provincial elections. Therefore, Parliament acts as the representative of the people of South Africa. Parliament is mandated to draft and pass national legislation, oversee the functioning of the Executive, facilitate public participation, and ratify international treaties. It achieves its mandate through a number of mechanisms, including the establishment of portfolio and select committees. Portfolio committees form part of the NA and are responsible for overseeing specific ministries and departments; while select committees form part of the NCOP and deal with a cluster of ministries and departments. The administration of Parliament supports all committees.

According to the *Constitution*, the President is the Head of State and the head of the national Executive, elected by the members of the NA (Section 86 of the *Constitution*). The national Executive consists of the President, Deputy President and Ministers appointed by the President. The functions of the executive authority are to:

- Implement national legislation unless the *Constitution* or an Act of Parliament specifies otherwise.
- Develop and implement national policy.
- Co-ordinate the functions of state departments and administrations.
- Perform any executive function provided for in the Constitution or in national legislation, such as negotiating and signing international agreements.

According to Section 165 of the *Constitution*, the Judiciary consists of the courts of the Republic. The Judiciary should apply legislation impartially and without fear, favour or prejudice, as its function is to uphold the rule of law within the Republic. Decisions by the Judiciary are binding on the affected parties.

With regard to international agreements, Section 231 of the *Constitution* provides the parameters for the Executive and the Legislature when the Republic enters into international agreements. The Executive is responsible for negotiating and signing all international agreements. The NA and the NCOP must approve these signed international agreements before they can be ratified. The exceptions are when the international agreements are of a technical, administrative or executive nature or do not require ratification or accession. However, these agreements must still be tabled in Parliament.

It is critical to note that unless an international agreement is self-executing, its provisions are not applicable unless they are incorporated nationally. This process of incorporation may include enacting or amending national legislation, which is a competence of the Legislature.

Furthermore, the Legislature is mandated to oversee the work of the Executive, which is being performed through its line departments and entities. This includes the negotiation of international agreements. This

oversight role should ensure that national objectives are met and that the work of departments benefits the citizenry. However, due to the democratic principle of separation of powers, Parliament has little control over the outcomes of the negotiations which the Executive undertakes on behalf of the nation. Where an international agreement would not be in the national interest, Parliament cannot alter the terms of the agreement and can at best ratify this with reservations or reject it once it has been tabled.

International trade agreements

An international trade agreement is an agreement between two or more countries governing the trade relationship between these and providing the parameters for trade liberalisation of all or some of their goods and/or services. International trade agreements can be considered a special type of treaty as it can directly affect the economy of a country by determining the terms of market access into external markets and opening the domestic market to foreign companies and exports or protecting it from competition, as well as facilitate trade across borders. In principle, trade liberalisation is generally considered to be beneficial to economies by allocating resources in a more efficient manner. At the same time, it involves states willingly relinquishing their sovereignty in trade and industrial policy space. Trade liberalisation can fundamentally change the dynamics of demand within the labour markets of the affected countries, which is of concern in the South African context given the need to address structural unemployment, poverty and income inequality. Therefore, due consideration of the national objectives and context is required when determining the agenda for a trade negotiation to maximise the benefits to the economy.

The constitutional provisions outlined in Section 231 govern South Africa's process to negotiate international trade agreements. Figure 1 outlines the trade negotiation, ratification and implementation process, as well as the key role players in these processes. This trade agreement life cycle includes the strategic decision-making process to enter a trade negotiation, the preparation for the negotiation, the actual negotiation process, signing and ratifying the agreement, and implementing and evaluating the trade agreement. The strategic decision-making process requires the Presidency or Minister of Trade and Industry to initiate or embark on a trade negotiation process and motivate this to Cabinet for its approval. Once Cabinet approval is received, the formal preparation for the negotiation begins. This may include desk top studies and engagements with identified, affected stakeholders. Domestic engagement continues during the actual negotiation process until the offers are accepted and the final text is agreed to by all parties and signed. At this stage, there is a consultative process to prepare explanatory memoranda and other documents for the ratification process. Once this documentation is completed, the agreement and documentation is tabled in Parliament to obtain approval for ratification from the NA and the NCOP. If approval is granted, this decision is sent to the Minister of International Relations and Cooperation. This Minister is responsible for the issuing of the instrument of ratification once the Presidency has concurred with Parliament. The agreement then enters into force once the relevant criteria are met and this must be implemented by the contracting parties through their domestic laws. Ideally, the impact of the trade agreement should be evaluated by the relevant Ministers and parliamentary

committees to ensure that its objectives are met and to inform future negotiations and decisions around trade relations.

As mentioned above, Parliament's primary role in terms of international trade agreements is to decide whether to approve these for ratification by the Executive and to pass or amend legislation to implement trade agreements once they enter into force. Since democracy, this has been Parliament's focus. However, over the last six years, Parliament has started to recognise a need to oversee the implementation of international agreements, including trade agreements. It has alluded to the need to 'influence' or have a say during the negotiation process as well. In this regard, it was suggested that Parliament should issue a negotiating mandate or framework. This shift had led to the Portfolio Committee on International Relations and Cooperation embarking on a lengthy process to consider the role of Parliament in the treaty-making process and how oversight over the implementation of treaties could be enhanced (Portfolio Committee on International Relations and Cooperation, 2013). Simultaneously, the Portfolio Committee on Trade and Industry started requesting regular briefings by the Ministry and Department of Trade and Industry. Prior to the World Trade Organisation's (WTO) Ministerial Conferences in 2011 and 2013, this included the Minister of Trade and Industry briefing the committee in a more substantial manner and a small delegation of the committee accompanied him to these conferences.

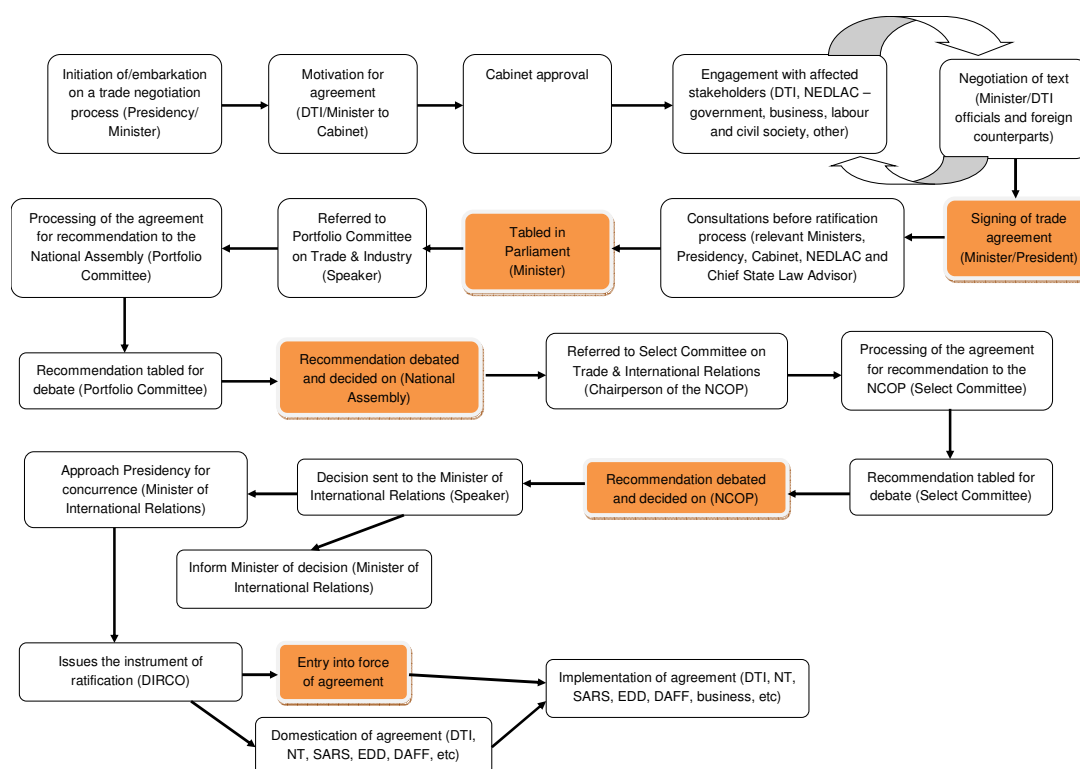


FIGURE 1: TRADE AGREEMENT LIFE CYCLE

Source: Based on Ms L. Mosala (personal communication, March 4, 2014) and Mr Z Masilela (personal communication, March 5, 2014)

Furthermore, Parliament's Oversight and Accountability Model (Parliament of the Republic of South Africa, 2009a) raised the need to implement new mechanisms or rules to allow for it to robustly and proactively engage stakeholders involved in negotiation teams relating to international agreements prior to the signing of these agreements. The Model also recommended that Parliament should be able to oversee compliance with international agreements by the Executive.

1.2 RESEARCH PROBLEM

Within this context, several challenges arise in relation to the approval for ratification of international agreements. These include (Portfolio Committee on International Relations and Cooperation, 2013):

- Parliament having limited knowledge and understanding of the content and implications of international agreements. This includes knowledge of the status of negotiations, the country's position, alignment with other domestic policies and interventions, the date when these are signed and whether these have been implemented. This was exacerbated at the point of parliamentary approval as no thorough analysis of the impact on South Africa's national interest is provided by the Executive.
- Late tabling of international agreements that limit Parliament's time to consider the agreement and its implications on national objectives and the national regulatory framework, as well as its alignment with existing national policies, before approving these for ratification.
- Insufficient parliamentary capacity to deal with treaties at the committee level.
- Reduced policy space, as each ratified agreement places international obligations on South Africa. These obligations may not be complementary to each other and to South Africa's overall developmental objectives.

Given this context, it may be pertinent that the relevant parliamentary committees are involved at an earlier stage of the trade agreement life cycle to overcome many of these challenges. Therefore, the main research question for this study is "How can Parliament effectively oversee developments during international trade negotiations to ensure that trade agreements support national strategic objectives?" In answering this research question, the following sub-questions were explored:

- What mechanisms does Parliament require to strengthen oversight during international trade negotiations?
- What type of capacity do parliamentary committees require to actively engage the Executive during the trade agreement life cycle?

The main research goals are to:

- Consider how Parliament can effectively oversee international trade negotiations to ensure that the pursuant trade agreements support national strategic objectives.

- Identify mechanisms to increase Parliament's capacity to make informed decisions around the trade agreement development process.
- Appropriately advise the relevant committees during the trade agreement life cycle to improve their oversight capacity.

1.3 CONCEPTUAL FRAMEWORK

The key concept for this study is the effectiveness of parliamentary oversight during international trade negotiations. Based on my experience, the effectiveness of this type of oversight will be dependent on the level of understanding that Members of Parliament (MPs) and parliamentary officials have of the terms and implications of international trade agreements, especially the implications on the national strategic objectives. This implies that the committee should be able to identify the linkages between the terms of a trade agreement, the domestic legislative framework and the relevant national strategic objectives.

The effectiveness of parliamentary oversight will be evident by the alignment between the pursuant trade agreement and the relevant national strategic objectives, as well as the contribution of the implemented trade agreement to those objectives. Effective oversight should therefore facilitate greater, more balanced² trade between the contracting parties, lead to more foreign direct investment flows into South Africa, reduce unemployment and increase consumer welfare.

Parliamentary oversight is premised on provisions in the *Constitution* and rests on the need to maintain separation of powers. Thus, the roles of the Executive and the Legislature should not overlap or be interfered with by the other. The *Constitution*, therefore, stipulates these specific roles while making all Executive action subject to the Legislature's oversight to promote accountability and transparency by government to the people of South Africa.

However, constitutional provisions in relation to international agreements have been interpreted to imply that the Legislature has no role to play in overseeing the negotiation process, even though this should fall under the notion of Executive action. Furthermore, that the Legislature only has a role to play once an agreement is signed and needs to be ratified. This is exacerbated in the absence of specific Parliamentary rules and/or practice to indicate otherwise.

Based on past committee experiences, it appears that this is further embedded in the idea that MPs are not technically equipped to understand and engage on international trade agreements. Further, that in-depth engagement would delay and possibly even derail trade negotiations. In terms of committee members, there

² 'Balanced' trade is generally considered to occur when trade inflows and outflows between parties is similar. Therefore, both parties are benefitting from having greater market access to export their products, while not having their domestic markets only being flooded by imported products.

further appears a disinterest by the majority party to deeply interrogate these agreements based on an inherent trust in the Executive and possibly a misunderstanding of the need to ensure accountability and transparency.

In worst-case scenarios, Parliament has had no prior knowledge of the negotiation of an agreement until it has been introduced by the Executive. These have often been introduced with tight deadlines after the Executive has been in possession of it for some time.

Given time constraints and the lack of technical knowledge, the Legislature is at a disadvantage to adequately interrogate a signed international trade agreement and to determine whether this is favourable for the country. Therefore, more effective oversight over the trade negotiation process could bridge this gap and lead to the Legislature building its capacity to ensure greater accountability and transparency by the Executive.

1.4 JUSTIFICATION FOR THE RESEARCH

Some of the aforementioned challenges could be alleviated if there were a mechanism for Parliament to effectively oversee trade negotiations. Possible mechanisms could include prescribing certain parameters for negotiations and continuous monitoring of the development of negotiations. However, mechanisms should be dependent on evidence-based knowledge related to the trade negotiation. For example, having access to research on the expected impact of certain trade-offs and/or what lessons were learnt from other implemented agreements. This robust engagement could result in more favourable trade agreements, which better align with national priorities and policies. This view has been increasingly supported and it has been recommended that Parliament should be involved earlier in the negotiation process and should oversee the compliance of these agreements after they have come into force (Parliament of the Republic of South Africa, 2009b, p. 38).

The development of appropriate mechanisms to strengthen Parliament's oversight during international trade agreements would improve Parliament's effectiveness but could also benefit business and labour in the long run, as more favourable and strategic trade agreements are entered into. This would also create a more structured approach to this type of oversight, which would assist parliamentary officials to support committees more effectively.

1.5 METHODOLOGY

This study uses grounded theory to develop a theory to resolve how Parliament can improve its effectiveness in overseeing trade negotiations. The following section briefly describes what grounded theory is.

1.5.1 AN INTRODUCTION TO GROUNDED THEORY

Grounded theory is a qualitative research method, which uses an inductive approach. It seeks to develop a theory of what is occurring in a system as revealed through a thorough qualitative data collection and analysis

process. I used this methodology to explore the area of parliamentary oversight in terms of international trade agreements, as research in this regard is relatively new in South Africa and not much literature is available. This method allowed me to identify the dynamics underlying the current system to effectively address underlying challenges; thus finding ways to strengthen Parliament's oversight function in this regard.

I used data gathering techniques such as conversational interviewing and technical and nontechnical literature. I interviewed a number of stakeholders including MPs, parliamentary officials, a government official in the Department of Trade and Industry, and stakeholders from relevant research organisations. These interviews were recorded. Additional data was collected from a report and presentations of the Portfolio Committee on International Relations and Co-operation's work covering the role of Parliament in treaty-making processes. The Portfolio Committee on Trade and Industry's work covering the oversight of trade negotiations and of their consideration of trade agreements for approval for ratification by the NA were also accessed for this purpose. These were analysed to develop key concepts or variables.

Next, I conducted a literature review to determine the parent body of knowledge within which the research study falls. This process yielded further variables. It also assisted in determining the linkages between the key concepts. Finally, I undertook a theory building process to determine the relationships between the key concepts and the key concern variable. The theory tries to describe what drives the system and how to address Parliament's challenge by strengthening the effectiveness of its oversight over trade negotiations.

1.6 DELIMITATIONS OF SCOPE AND KEY ASSUMPTIONS

While there are many aspects that a trade negotiation could include, the research is limited to trade negotiations focused on trade in non-agricultural goods. I selected trade in goods, as for instance trade in services is even more complex and overlaps a much broader spectrum of government departments. Although the Minister and Department of Trade and Industry would be primarily responsible for all trade negotiations, other aspects of trade negotiations require more consultation and input from a wider range of government stakeholders and portfolio committees, which would make the study a bit unwieldy.

Consequently, I also focused on the Portfolio Committee on Trade and Industry's role in the parliamentary oversight of trade negotiations, as it is the main conduit for interrogating and overseeing the Minister and Department of Trade and Industry's actions in negotiating trade agreements on behalf of the Republic of South Africa.

Furthermore, although South Africa is part of the Southern African Customs Union (SACU), the impact of this was not factored into the study. As part of a customs union, South Africa is obliged to negotiate as part of SACU and legally should not embark on trade negotiations apart from SACU. However, due to the historical dynamics within SACU, South Africa remains the dominant partner driving much of the Union's trade and industrial policy and tends to act in a seemingly unilateral manner. So given these dynamics and the fact that

Parliament does not have jurisdiction to oversee the actions of the Executive of the other SACU countries, the study was limited to oversight over South Africa's actions as part of trade negotiations. It is therefore assumed that the South African Executive has consulted and reached consensus with the other SACU countries before and during trade negotiations.

I only interviewed stakeholders that have had a direct involvement or knowledge of Parliament's oversight role in relation to trade negotiations. There was a challenge in securing interviews with certain government officials; therefore, the Executive's perspective in terms of the value that Parliament's role in this regard could add is limited.

1.7 OUTLINE OF THE DISSERTATION

This dissertation consists of six chapters. The first chapter presented provides the context for the study focusing on the research problem, question and goals, as well as the limitations of the study. The second chapter provides an in-depth description of the methodology used, namely grounded theory. The third chapter unpacks the research results focusing on describing the process followed for the development of the "effectiveness of parliamentary oversight over trade negotiations" concept, as well as providing a description of the five concepts developed from the data. The fourth chapter outlines the approach followed for the literature review, describes the parent discipline, which the research results fall under, defines the concepts where the research problem, research question and research goals are located and analyses relevant theories related to each identified core variable or concept. The fifth chapter provides the steps used to develop the underlying theory or causal model for this study and describes the final theory developed. The sixth chapter concludes the dissertation. It considers the policy and practical implications of the developed theory and possible future areas of research, as well as the validity and limitations of the theory.

1.8 CONCLUSION

This chapter provides the context for the study and sets out the intention of the research. It highlights the methodology being used, as well as the delimitations of the study. The next chapter explains in further depth how the research was conducted.

2 METHODOLOGY

2.1 INTRODUCTION

This chapter describes the research design of my study using Maxwell's interactive model. It then explains grounded theory as a method of qualitative research and the reasons for the selection of this method. Next, it discusses the grounded theory process, the key steps generally involved and the specific steps taken in my study. This chapter also highlights key analytical tools such as questioning and memo writing that are used in the study. Furthermore, I consider how to address validity in grounded theory and unpack the ethical considerations for my study. Finally, it summarises the methodology and points out the key features of the methodology.

2.2 RESEARCH DESIGN

A range of diverse fields uses qualitative research to understand human behaviour, opinion and experience using data that does not indicate ordinal values. This diversity has led to a number of viewpoints on what qualitative research is and how it should be conducted. Although there are many definitions, in principle, qualitative research focuses on the type of data generated and/or used, namely any data that is not quantitative in nature. (Guest, Namey & Mitchell, 2013) Where quantitative research focuses on objectively measuring behaviour, objects or events in a numerical fashion using a set of rules to determine the relationships between identified categories or variables; qualitative research focuses on "understanding phenomena in context-specific settings" to extrapolate this understanding to other similar situations (Golafshani, 2003). Grounded theory is one method of qualitative research. A clear research design is essential to effectively conduct qualitative research.

For this study, the research design adopted is Maxwell's (2005) interactive model for qualitative research design. According to Maxwell (2005), a linear research design is unsuitable for qualitative research. He asserts that the nature of qualitative research requires constant assessment of how the research design is "actually working during the research, how it influences and is influenced by its environment" so that the necessary adjustments can be made to achieve the research goals. His model consists of five inter-related components, namely the:

- Research goals: This covers the value of the study, the issues to be clarified and any practices or policies that are to be influenced. This may include personal, practical and intellectual goals.
- Conceptual framework: An outline of what the researcher believes is happening in the phenomenon to be studied. This can be based on theories, beliefs and prior research, as well as personal experiences. This is a system of concepts, expectations, beliefs and theories that support and informs the research.
- Research questions: This outlines what the researcher wants to understand through the research process.

- **Methods:** The methods describe what the researcher will be doing during the research process. This covers the approaches and techniques to collect and analyse the data.
- **Validity of the research:** This discusses in what ways the results and conclusions may be incorrect, plausible alternative interpretations of these and validity threats, as well as how these can be addressed. Essentially, it considers why the results can be trusted.

The research design is set out as follows. Chapter 1 explains the study's research goals, conceptual framework and research questions in detail. The research methodology selected for this study is grounded theory. This chapter discusses the methods used and the validity components of the study.

2.3 GROUNDED THEORY

Grounded theory is a method that can be used to conduct qualitative research. Glaser and Strauss initially developed this methodology in 1967 (Calman, n.d.; Corbin & Strauss, 2008, p. 1). In principle, grounded theory uses an inductive approach to build a theoretical construct based on the qualitative analysis of data (Corbin & Strauss, 2008, p. 1). According to Calman (n.d.), grounded theory is useful in uncovering basic social processes by "exploring integral social relationships and the behaviour of groups" to understand the underlying processes that should be addressed to resolve a particular concern.

Glaser (2002) describes grounded theory to be "the generation of emergent conceptualizations into integrated patterns, which are denoted by categories and their properties." Developed concepts should therefore be abstract of time, place and people and should have an enduring appeal that spans over time.

Unlike other qualitative methodologies, grounded theory (i) is generated from data rather than previous studies; (ii) attempts to discover dominant processes in the social scene rather than describing the unit being investigated; (iii) involves a comparison of all data with all other data; (iv) involves a series of data collection processes that can be modified according to the advancing theory; and (v) entails the examination and analysis of data as they arrive to code, categorise and conceptualise these from the beginning of the study (Struebert & Carpenter, 1999). In this regard, some of the core features of grounded theory are the (Calman, n.d.):

- Simultaneous collection and analysis of data.
- Creation of analytical codes and categories developed from data and not by pre-existing conceptualisations from literature (theoretical sensitivity).
- Discovery of basic social processes in the data.
- Inductive construction of abstract categories.
- Theoretical sampling to refine categories.
- Writing analytical memos as the stage between coding and writing.
- Integration of categories into a theoretical framework.

2.3.1 RATIONALE FOR USING GROUNDED THEORY

The rationale for using grounded theory in this study is that the area of parliamentary oversight, particularly in terms of international trade agreements, is relatively new in South Africa and not much literature is available in this regard. The grounded theory methodology allows the dynamics underlying the current system to be identified to effectively address underlying challenges; thus strengthening Parliament's oversight function in this regard.

2.3.2 GROUNDED THEORY PROCESS

The grounded theory process is illustrated in Figure 2 below. This comprises three main areas, namely data generation, data analysis and concept development. These three stages of the process are described in terms of the theory and the specific process followed within this study below.

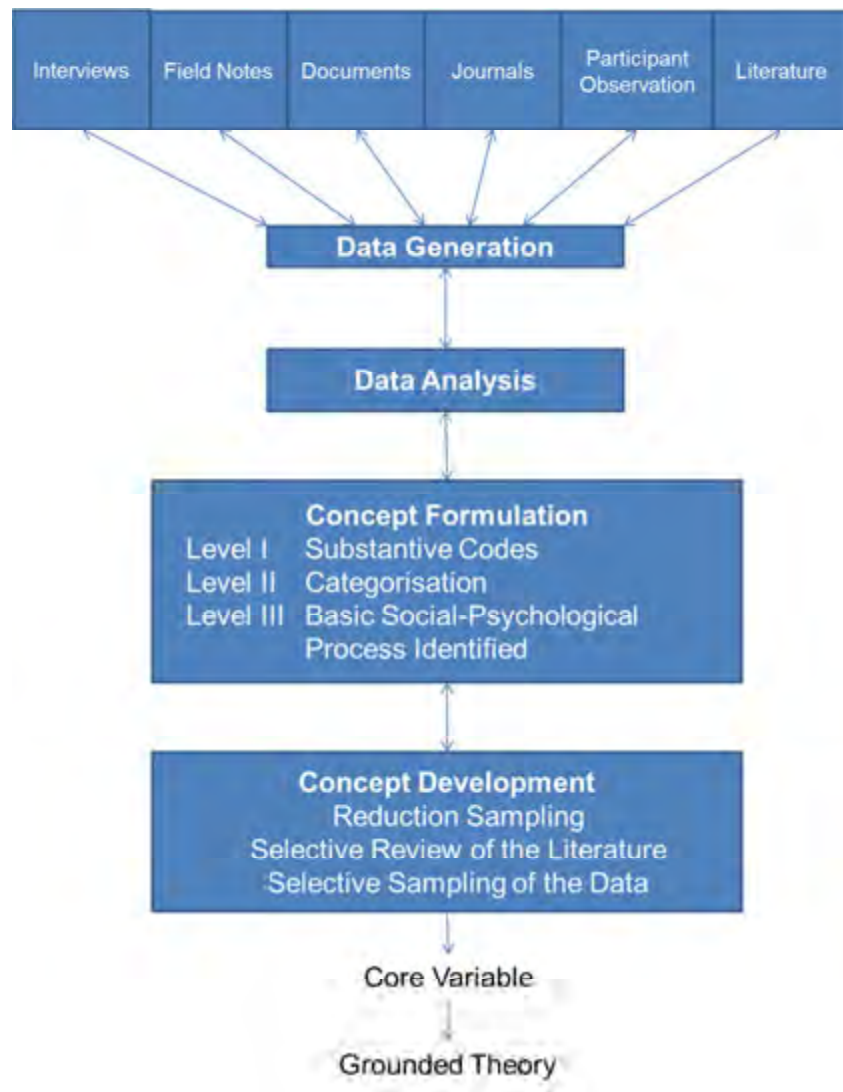


FIGURE 2: GROUNDED THEORY AND CONNECTIONS AMONG DATA GENERATION, TREATMENT AND ANALYSIS

Source: adapted from Struebert and Carpenter (1999)

2.3.2.1 DATA GENERATION

The grounded theory process begins with the collection and analysis of data in a circular manner, as analysis begins with the first set of data collection, which identifies concepts that generate questions and lead to further data collection to answer these. Data can be generated from a variety of sources, such as interviews, field notes, documents, journals, participant observations and literature, as far as these relate to the study area or concepts being developed. (Struebert & Carpenter, 1999) These sources can be mixed as a way to ensure the validity of the study (Golafshani, 2003).

In this study, the first form of data collection was through semi-structured interviews. In this regard, a number of participants were identified based on their current or previous involvement within the area of the study. Therefore, a selection of MPs, parliamentary officials including a selection of content advisors, researchers and table staff, government officials in the Departments of International Cooperation and Relations and of Trade and Industry, and stakeholders from relevant research organisations and the private sector were identified to be interviewed. Initially, an attempt was made to combine e-interviews³ and face-to-face interviews.

In terms of the e-interviews, similar to Bampton and Cowton (2002), two of the participants had requested that they would prefer to be contacted via e-mail and would respond accordingly. However, their responses were not forthcoming and a shift to telephonic interviews where respondents were located outside of the Western Cape was made.

The second form of data was presentations of the Portfolio Committee on International Relations and Co-operation's work covering the role of Parliament in treaty-making processes. This was accessed through the Parliamentary Monitoring Group's website⁴. In addition, this committee's report published in Parliament's Announcements, Tablings and Committee Reports (ATC) dated 18 October 2013 was utilised as data.

The third set of data was from a selection of reports of the Portfolio Committee on Trade and Industry's work covering the oversight of trade negotiations and of their consideration of trade agreements for approval for ratification by the NA. The audio recordings and presentations were also accessed from the Parliamentary Monitoring Group's website.

These two documentary sources of data were used as they could reveal some aspect of how Parliament oversees trade negotiations or MPs' thinking around how Parliament should improve its oversight. The methods used to gather the data are described below.

³ An e-interview, in the case of this study, refers to an interview via electronic mail to collect data instead of a face-to-face or telephonic interview. Electronic mail was used as a form of communication between the interviewer and interviewee.

⁴ www.pmg.org.za

Conversational interviews

Face-to-face or telephonic interviews were held with individual participants being asked open-ended questions in a semi-structured manner. These interviews were tape-recorded; however, they were not transcribed but time stamps were provided as referencing points for the raw data using *InqScribe*, software for transcription and subtitling.

During each interview, I provided the context for the meeting covering the purpose of the research and a brief background about the area, depending on the participant's background. The main questions had evolved through an iterative process and additional questions of clarity were asked when necessary during each interview (see Section 3.2.1 for further detail). In addition, different types of participants were asked slightly nuanced questions to fit their involvement or interest in the oversight process. The participant groups were broadly (i) MPs/parliamentary officials, (ii) government officials; and (iii) external research organisations. Table 1 outlines the core questions asked per participant group and the rationale behind these.

TABLE 1: SEMI-STRUCTURED QUESTIONS ASKED OF VARIOUS PARTICIPANT GROUPS

| Questions | Participant group(s) | Reasons |
|---|---|---|
| What has been your experience of Parliament's oversight over international trade negotiations? | All MPs/ parliamentary officials | To provide a baseline of the type of experience each individual had of parliamentary oversight over trade negotiations. To determine the extent to which this was already happening. |
| What challenges do you see in the current (oversight) process, if any? | All MPs/ parliamentary officials | To obtain an understanding of the underlying problems. |
| In your view, is the current process assisting the country to reach its national objectives? Why do you believe this to be? | All MPs/ parliamentary officials | To determine whether those involved in the oversight process considered the process to be effective. |
| What obstacles exist to Parliament being able to effectively oversee trade negotiations? | All MPs/ parliamentary officials and government officials | To narrow the focus to what would drive or hinder deeper oversight over trade negotiations from a parliamentary and government perspective. |

| Questions | Participant group(s) | Reasons |
|--|--|---|
| <p>What does parliamentary oversight entail?</p> <p>How would you define effective oversight by Parliament?</p> | Second group of MPs/ parliamentary officials | <p>To make the underlying assumptions around oversight explicit, as this was not forthcoming from initial interviews with this group.</p> <p>To assist in saturating the development of the main concern.</p> |
| What is the current process of engaging with stakeholders (including Parliament) before and during trade negotiations? | Government officials and external research organisations | <p>To understand the engagement process in more detail from a government perspective, as well as an objective perspective, as the research organisations had extensive networks and experience including with business.</p> <p>To determine the perceived importance of Parliament during this phase.</p> |
| What challenges exist (if any) with the current process of engagement? | Government officials and external research organisations | <p>To determine the drivers or obstacles to this process from a government perspective, as well as an objective perspective.</p> <p>To identify the possible role Parliament could play here.</p> |
| What has been your experience of how Parliament (and the Portfolio Committee on Trade and Industry specifically) has performed its oversight role over trade negotiations? | Government officials | <p>To determine the level of involvement with parliamentary oversight.</p> <p>To gain the government perception of the parliamentary process.</p> |
| What has been your experience of how Parliament has performed its oversight role over trade negotiations? | External research organisations | <p>To determine the level of involvement with parliamentary oversight.</p> <p>To gain a more objective perspective of the parliamentary process.</p> |
| In your opinion, what value could strengthening Parliament's oversight role add to the trade negotiation process? | Government officials and external research organisations | To determine the outcomes of parliamentary oversight from a government and alternative perspective. |
| What is your view of parliamentary | External research | To make the underlying assumptions around oversight |

| Questions | Participant group(s) | Reasons |
|---------------------------------|----------------------|---|
| oversight? What does it entail? | organisations | explicit. To assist in saturating the development of the main concern. |

In total, four MPs were interviewed including members from opposition parties; five parliamentary officials covering all support functions within a committee and a legal advisor; and one government official was interviewed; as well as two research organisations.

Documentary sources

Data from the two portfolio committees' meetings was collected from the Parliamentary Monitoring Group's website and relevant reports drafted and adopted by these committees were sourced from Parliament's Announcements, Tablings and Reports publications.

2.3.2.2 DATA ANALYSIS

The data analysis stage consists of three levels of coding. Initially, data is coded openly to discover tentative categories within the data (level I or substantive codes). This first level of coding involves line-by-line examination of the data to identify processes within the data and describe the substance of the data. Often, these codes are a close reflection of what the data states or participants have said. (Struebert & Carpenter, 1999)

The second level of coding involves categorising data by constantly comparing it to other data and clustering these into groups or categories that fit together. These categories are then compared to each other to ensure that they are mutually exclusive. (Struebert & Carpenter, 1999)

The third level of coding involves describing the basic social-psychological processes displayed within the category. This would entail developing a title that describes the central theme emerging from the data. Possible questions that could be asked to do this are:

- "What is going on in the data?
- What is the focus of the study and the relationship of the data to the study?
- What is the problem that is being dealt with by the participants?
- What processes are helping the participants cope with the problem?"

In this study, the Level I coding process started with the development of propositions, sentences with a subject, verb and an object, based on the data. Propositions were developed from the three above-mentioned

sources by systematically evaluating their relevance. A proposition log was used (see Table 2 for the headings used in the log).

TABLE 2: MATRIX FOR DATA ANALYSIS

| No. | Source | Data reference | Proposition | Relevance to main concern variable | Impact (High/Medium/Low) | Validity (High/Medium/Low) | Memo |
|-----|--------|----------------|-------------|------------------------------------|--------------------------|----------------------------|------|
| | | | | | | | |

In terms of the interviews or voice recordings of meetings, the raw data was logged based on the time code on the recording, while phrases or sentences were copied from text where available. The developed proposition was recorded in the proposition log. Each proposition was analysed in terms of its relevance to the main concern (strengthening the effectiveness of oversight over trade negotiations)⁵, the degree to which this proposition affected the main concern and its validity. The memo writing method was used to interrogate these propositions (discussed below). This involved questioning the implication of the proposition, possible linkages and further aspects to consider related to the particular proposition.

Each proposition was transferred onto a piece of paper and numbered to ensure easy traceability back to the proposition log. Next, the propositions were grouped to form the initial concepts using constant comparisons between data sources. These concepts were interrogated or unpacked through a further memoing process using a variety of questioning types. Where outstanding questions remained around a concept in terms of its properties and dimensions, further data was collected from the various sources using directed questions until each concept was saturated.

The analytical tools used to analyse the data are described below.

Questions and constant comparison

Corbin and Strauss (2008, p. 68-69) emphasise the use of questioning and comparisons to analyse data during qualitative research. The use of questioning should enable the researcher to probe the data, think outside the box and become acquainted with the data, while developing provisional answers. This tool can be applied throughout the analytical process. Initially, the questions asked may focus on understanding the subject or the problem by investigating the participant's perspective. These provisional answers could lead the researcher on

⁵ The main concern was derived from the main research question, as this should form an integral part of the data analysis process.

what to be looking for in the existing data, as well as data that will still be collected. In addition, they may also suggest areas for theoretical sampling.

Questions could cover who, what, when, where, how and why, as well as questions of frequency, duration, rate and timing. Other types of questions include (Corbin & Strauss, 2008, p. 72):

- *Sensitising questions*: These types of questions focus on what the data may be indicating including the comparison of meaning and definitions across various participants and situations.
- *Theoretical questions*: These types of questions consider the processes and variation within the data to make connections between concepts.
- *Practical questions*: These types of questions provide direction for theoretical sampling and building a theory, for example what needs to be done next or whether the theory being developed is logical.
- *Guiding questions*: These types of questions guide the interviews, observations, document gathering and analysis.

During analysis, the research can make comparisons as another type of analytical tool. Two forms of comparisons exist, namely constant comparisons and theoretical comparisons. Constant comparisons consider each incident against another in the data in terms of their similarities and differences. This is essential to identifying different aspects of the same phenomenon (Corbin & Strauss, 2008; Dye, Schatz, Rosenberg, & Coleman, 2000). While, theoretical comparisons consider similes or metaphors to assist in classifying an incident in terms of its properties and dimensions. This involves comparing the properties and dimensions derived from the comparative incident to examine the data and provide ideas of what to look for in the data. (Corbin & Strauss, 2008)

Other analytical tools include considering the various meanings of a word; turning a concept “inside out” or “upside down” for various perspectives on a phrase or word; drawing upon personal experience; and looking at how respondents’ use language. However, these were not utilised and therefore not discussed in detail.

These analytical tools are applied to raw data and concepts emerging from the data are explored by writing memos and deriving diagrams that form the basis of the analytical process. The purpose and process of writing memos is discussed below.

Memo Writing

Memos refer to written records of analyses. The purpose of writing memos is to force the researcher to think about the data. However, different types of memos exist. (Corbin & Strauss, 2008, p. 117-118) These include memos for (Corbin & Strauss, 2008, p. 118):

- “Open data exploration
- Identifying/developing the properties and dimensions of concepts/categories

- Making comparisons and asking questions
- Elaborating the paradigm: the relationships between conditions, actions/interactions and consequences
- Developing a story line”

Memos should be written throughout the analytic process to keep track of complex and cumulative thinking. This will include periodic diagrams to depict relationships between analytic concepts. A critical feature of memos is that it assists in lifting the researcher from dealing with raw data or a description of events to concepts. (Corbin & Strauss, 2008, p. 118-119) Concepts refer to words that represent “groups or classes of objects, events and actions that share some major common property(ies), though the property(ies) can vary dimensionally” (Corbin & Strauss, 2008, p. 45). The analysis would be developed on the basis of these concepts and their relationships to one another.

Ideally, memos should have sufficient identifying information to be able to retrieve them easily at a later stage. This could include a date, extracts from raw data that formed the basis of the memo/diagram or a reference to the initial data and a descriptive heading. Other aspects of categorising memos should be considered such as colour-coding. In this regard, a list of concepts and sub-concepts may be a useful reference list to keep track of the development of the analysis. (Corbin & Strauss, 2008, p. 120-122)

2.3.2.3 *CONCEPT DEVELOPMENT*

A concept is an object developed by classifying and categorising other objects in the concrete world. It therefore refers back to the concrete world. A concept consists of a sense and a reference, where the sense is a collection of generic properties, characteristics or attributes that are shared by similar objects in its class and the reference represents the specific elements of the objects that it applies to. In addition, a concept has drivers or constrainers that are required for it to exist or occur (called antecedents) and it has consequences or outcomes. (Shelley, 2012)

According to Struebert and Carpenter (1999), concept development entails three stages, namely reduction, selective sampling of the literature and selective sampling of the data. The reduction stage involves comparing categories that have evolved during the data analysis process to connect them into broader categories. Selective sampling of the literature or literature review can follow or be conducted simultaneously with data analysis. The intention is to focus on published literature that relates to the emerging concepts to fill gaps in the emerging theory. The literature is used as a data that is integrated into the theory. Selective sampling of data, also known as theoretical sampling, relates to the collection of additional data to discover the properties and dimensions of the main concepts. Concepts that appear most relevant to the concern would be subjected to theoretical sampling. This process of data collection and analysis would continue until a point of saturation is reached where categories are sufficiently developed in terms of their properties and dimensions.

For the purpose of this study concepts were constructed as variables, an object that can be measured. The concepts were constructed using the categories developed through the data analysis process. These were used to determine the properties and characteristics of each concept, their antecedents and outcomes.

Once the grounded theory process was completed, a literature review was conducted. The literature review process is explained in more detail in section 4.2. This was followed by a theory building process.

2.4 ADDRESSING VALIDITY IN GROUNDED THEORY

According to Golafshani (2003), validity in quantitative research is based on whether the research has measured what it intended to, and in an accurate manner. Quantitative research is also concerned with the extent to which its research instrument can be replicated or repeated to achieve similar results, also known as the reliability of the research. However, in qualitative research, the concepts of reliability and validity are merged, as validity is argued to be impossible without the achievement of reliability in such a study. A qualitative study should explain the phenomenon well and data should be used consistently throughout the research process.

In this regard, the validity of qualitative research is threatened at three stages of the research process. These are during the designing of the research or the collection of data, while analysing the data, and interpreting the data. Threats can be internal or external. Internal validity relates to “the truth value, applicability, consistency, neutrality, dependability, and/or credibility of interpretations and conclusions within the underlying setting or group”(Onwuegbuzie & Leech, 2007). While external validity relates to the extent to which the results can be applied across different populations of persons, settings, contexts and times (Onwuegbuzie & Leech, 2007).

The methodology of grounded theory has been widely criticised; thus, it is critical to ensure that the study has been conducted with rigour or the findings are trustworthy. The trustworthiness or validity of the research requires that:

- The categories relate well to the data; i.e. they fit well and are relevant.
- The categories are well integrated with the emerging core category.
- All concepts that are important to the theory are incorporated into it and the theory can be modified when new relevant data is compared to existing data.

Lincoln and Guba (1985) refer to four specific criteria for validity in qualitative research, namely: (i) credibility; (ii) dependability; (iii) confirmability; and (iv) transferability. These criteria are used to evaluate the validity of this study and are described below, including the possible techniques that can be used to achieve them and the techniques adopted in this study.

2.4.1 CREDIBILITY

Credibility refers to the truthfulness of the research findings in relation to the “constructed realities that exist in the minds of the inquiry’s respondents” (Siegle, n.d.). Truthfulness can be realised using (i) prolonged engagement; (ii) persistent observation; (iii) triangulation; (iv) peer debriefing; (v) negative case analysis; (vi) referential adequacy; and (vii) member checking.

Prolonged engagement refers to devoting enough time in the field to understand the phenomenon of interest by observing different qualities of the setting and to develop rapport with participants. This ensures that the researcher understands the context as fully as possible and assists in achieving data saturation. The more time the researcher spends engaging or observing the context, the fewer the distortions related to the researcher’s impact of biases. This can also result in encounters with unusual or seasonal events. (Lincoln & Guba, 1985; Siegle, n.d.)

The intention of persistent observations is to identify the most relevant characteristics and qualities of the phenomenon (Lincoln & Guba, 1985). This involves constant comparison between data, other sources including extant literature, the researcher’s knowledge and experience of similar situations and/or concepts to uncover the relevant characteristics and qualities (Corbin & Strauss, 2008; Glaser, 2002; Onwuegbuzie & Leech, 2007).

Triangulation is used to limit random associations and to create more certainty around the findings. It can involve multiple data sources, methods of collecting data, researchers and theoretical perspectives. (Onwuegbuzie & Leech, 2007) Triangulation can produce a more “rich, robust, comprehensive and well-developed” account of the study (Robert Wood Johnson Foundation, n.d.).

Peer debriefing can be done with a peer who is not involved in the study. The intention is to explore aspects of the study to expose the researcher’s biases, perspectives and assumptions. It can also be used to test hypothesis, relationships and/or concepts emerging from the data.

Negative case analysis comprises looking for cases that do not fit the current analysis to refine and ensure that the final pattern explains the majority of cases. Contradicting data should be analysed and discussed and compared to the data that is considered to fit into the pattern.

The Robert Wood Johnson Foundation (n.d.) explain that referential adequacy involves archiving a selected portion of data that is not analysed but used as a reference latter to test the validity if the findings. While Siegle (n.d.) refers to the way in which material is documented, such as video-taping interviews or observations.

Member checks involve submitting the interpretation of data and/or findings to participants to ascertain that the participants’ intentions were understood correctly. However, Glaser (2002) argues that conceptualisation

within a grounded theory context should transcend time, place and persons. Therefore, this is an unsuitable method to ensure credibility for this study.

In this study, triangulation was used by gathering data from three sources to ensure an appropriate mix of information. In addition, interviews were considered from participants from a variety of perspectives of the trade negotiation process. This included parliamentary officials from a technical and content perspective, MPs from a variety of parties, government officials, business and researchers from external institutions. Furthermore, data was gathered from the recorded meetings of the Portfolio Committees on International Relations and Cooperation and of Trade and Industry.

Initially, I had identified a number of individuals to interviews based on the three types of respondents. These were eight MPs and seven parliamentary officials, three government officials and four research organisations. However, only four MPs and five parliamentary officials, one government official and two research organisations were interviewed. The sample size of interview participants had been limited due to an inability to secure all planned interviews. Access to stakeholders, particularly government officials, had been problematic due to clashing schedules and lack of response to requests for interviews. Although the necessary permission had been sought from the Secretary to Parliament to interview parliamentary officials, the uptake was low where I did not have existing relationships with those officials. However, as mentioned above, an effort was made to use participants from a variety of perspectives who had a rich knowledge of the environment and possibly wider experience than their current roles. For instance, parliamentary official 1 had extensive knowledge of trade negotiations as he had worked in the field prior to being employed by Parliament.

Constant comparisons were made between the data, other sources including extant literature, the researcher's knowledge and experience of similar situations and/or concepts to discover the relevant characteristics and qualities of the emerging concepts. Where necessary, key concepts underwent theoretical sampling to ensure that they were fully developed and saturated.

2.4.2 *DEPENDABILITY*

Dependability requires that findings are consistent and could be repeated with the same respondents and under similar conditions. Siegle (n.d.) states that there can be no credibility without dependability; therefore, dependability does not have to be proven if credibility has been achieved. However, he and Lincoln and Guba (1985) also suggest that an inquiry or external audit can be conducted to ensure dependability. This entails an external researcher scrutinising the research process and the final product to assess whether the findings, interpretations and conclusions are grounded in the data.

No specific method was used within this study. However, each chapter has undergone ongoing review by my supervisor. The study was also subjected to an external review process.

2.4.3 CONFIRMABILITY

Confirmability relates to researcher bias and the extent to which the findings have been derived from the data and not superimposed on the data based on the researcher's preconceived ideas. This can be checked through a confirmability audit, which is similar to the inquiry or external audit referred to above. The audit will require an adequate audit trail that should include the raw data, data reduction and analysis products, data reconstruction and synthesis products, process notes, materials relating to intentions and dispositions, and instrument development information. (Lincoln & Guba, 1985)

Researcher bias may exist as I work directly with the Portfolio Committee on Trade and Industry and advise it on oversight over trade negotiations, among others. This bias had the potential to influence participants during the conversational interviewing process and in terms of the interpretation of the data. In addition, there was a risk of certain participants' data influencing my interpretation of other data rather than being sensitive to its nuances. Furthermore, I have relationships with several of the participants and therefore, familiarity around the topics may exist.

As I have existing experience and knowledge of the subject being studied, Strauss's method of focusing on the rigour of the process rather than Glaser's idea of embarking on a grounded theory study with a blank slate lends itself to my study. I have also built an audit trail within the dissertation by discussing the research design for the grounded theory process and providing evidence of this for one of the concepts in Chapters 2 and 3 respectively. More examples of how the concept was developed are available in the annexures.

2.4.4 TRANSFERABILITY

Transferability denotes the applicability of the findings to other contexts. Siegle (n.d.) argues that transferability should be limited to the population but not necessarily be relevant in other contexts or on the same context in another time period. However, Glaser (2002) is of the view that, in grounded theory, conceptualisations should be "abstract of time, place and people". Lincoln and Guba (1985) describe thick description as a way to determine the degree to which conclusions are transferable. Simply speaking, thick description is a detailed description of experiences while gathering data and the explicit account of patterns and relationships placing these into context.

As mentioned above, in illustrating the development of one concept and in describing each on the concepts, thick description was used (see Chapter 3).

2.5 ETHICAL CONSIDERATIONS

As part of the research proposal, the Faculty of Commerce at the University of Cape Town expected students to go through an ethics clearance process, as the study involved the participation of human subjects. This was important to ensure that the researcher has received the necessary consent from participants; that he/she

respects the confidentiality of participants and deals with this appropriately; and has dealt with sensitive information arising from the research in an appropriate manner.

I did not foresee any substantial ethical implications linked to the research. The interviewees were selected on the basis of their knowledge of the subject matter and their ability to contribute to either understanding the research problem or developing a solution. Interviewees were therefore treated as key informants rather than human subjects. Where required, positions of the interviewees were referred to in the study. The questions asked have not focused on their personal information. Furthermore, the study refrained from referring to their names. Participants were requested to sign a consent form (see Appendix A – Consent Form) before the interview. However, in certain instances where interviews occurred telephonically, the consent form was sent electronically to participants and their oral consent was obtained. The consent form requested permission to refer to the participant's position.

The study focuses on the opinions of the individuals regarding Parliament's oversight role over the Executive during trade negotiations. The only identifiable records of individuals are their positions in Parliament, government or other research organisations. However, where permission was not granted, a generic title was used. Therefore, participants who prefer to remain anonymous have had the opportunity to indicate this. These consent forms were kept as part of an evidence file.

Furthermore, permission had been requested from the former Secretary to Parliament, Mr M Coetzee, to conduct interviews with parliamentary officials and MPs.

In terms of the research goals, there were no ethical implications, as achieving them would contribute to the body of knowledge in relation to Parliament's oversight role; increase my personal capacity to support committees and strengthen Parliament's oversight role in the trade negotiation process. The research goals are referred to below:

- The intellectual goal is to understand the current trade negotiation process.
- The personal goal is to be able to advise the relevant committees appropriately during the trade negotiation process to improve their oversight capacity.
- The practical goal is to consider how Parliament can effectively oversee international trade negotiations to ensure that the pursuant trade agreement supports national strategic objectives.

There was no direct funding or sponsorship received for the research. In addition, the findings of the research have not been published nor disseminated. Therefore, there was no externally imposed conflict of interest while conducting the research.

2.6 CONCLUSION

This chapter set out the research design, the specific methods used to derive and analyse data and develop the key concepts. It also described the measures taken to ensure validity within the grounded theory process and the ethical considerations relevant to this study. The next chapter provides evidence that this methodology was followed and describes the key concepts emerging from the data.

3 RESEARCH RESULTS

3.1 INTRODUCTION

In this chapter, I provide my research results and evidence of the process followed in doing grounded theory as explained in the previous chapter. The chapter begins with evidence of data generated or collected during the process focusing on the development of the “effectiveness of parliamentary oversight over trade negotiations” concept. Next, it discusses the analysis of data that led to the development of this concept. Then, it explains the development of this concept and describes the properties of the five concepts developed. Finally, it summarises the research results.

3.2 DATA GENERATION

3.2.1 *INTERVIEWS*

Data generation started with five interviews. These were with an MP, two parliamentary officials, and two participants from research organisations. All participants had some experience of the parliamentary oversight process and exposure to trade negotiations at different levels and were asked a broad spectrum of questions. Although data was not initially analysed immediately after each interview, there was some cross-pollination after each interview. Where interviewees raised issues that were mentioned before, I noted such incidences and asked additional questions based on information from previous interviews. A large proportion of this occurred in relation to the Department of Trade and Industry’s (DTI) engagement with stakeholders in relation to the trade negotiations through the NEDLAC forum.

In terms of participants’ experience of the Portfolio Committee on Trade and Industry’s oversight over trade agreements, participants were asked: “What has been your experience of how Parliament has performed its oversight role over trade negotiations?” An extract of the responses are provided in Table 3 and the further responses in this regard are available in Appendix C.

It was a challenge to get participants to focus on answering some of the questions directly, as especially the experience on oversight appeared to be an emotive one with either enthusiasm, such as with Member 1, or frustration in the case of Researcher 1. The information within these five interviews tended to overlap with recurring information, which at times appeared contradictory. For example, Parliamentary Official 1 mentioned that there was no constitutional basis for Parliament to be involved in trade agreements and he appeared to be vehement about Parliament having no role but later suggested that Parliament could play a role in providing guidelines or parameters for negotiations, as a stakeholder. Furthermore, he conceded that strengthening oversight could improve accountability and keep the Executive in check.

TABLE 3: EXTRACTS OF RAW DATA FROM INITIAL INTERVIEWS

| Participant | Response |
|-------------|--|
| Member 1 | <p>"The first thing that I think is very critical is the setting up of the, what is called, the South African delegation set up by the Department of Trade and Industry. The South African delegation is composed of the department itself, Parliament in the form of the Portfolio Committee, labour, organised labour, business and community organisations all of which are the NEDLAC (National Economic Development and Labour Council) stakeholders. We then meet together to discuss what we call ... the South African position prior to going to trade negotiations... and that involves the views of all these sectors that I mentioned. When we then go to the negotiations at the WTO, that's when we then get involved in different small discussion groups and all the time putting forward as part of our negotiations the South African position, which is agreed upon. And it has assisted us to always sharply raise issues that are of concern to the South African trade related issues. But also what I have seen happening with the rest of the South African delegates in what then usually develops into an African regional position...."</p> <p>A follow up question was asked, "And your experience within the committee, how did you find oversight interactions?", which was responded to as follows:</p> <p>"It has been a very robust kind of interaction, oversight of government, of the Executive in particular and of the department. It has been an open engagement. Very interestingly, no tensions which I think is a reflection of the kind of leadership which the committee has had in the person of Chairperson Joan Fubbs and the committee whip, comrade Bheki Radebe. But also the kind of robust but cordial engagement with the department is reflective of the Minister. I always say that a department is as good as its minister. It has reflected very positively with Minister Rob Davies. He has led by example, he has engaged with the study group, with the committee as a whole on numerous occasions and his officials in the department have always been open to engage us. So that has facilitated oversight over the Executive and over the department as a committee."</p> |

Through the data analysis process, described below, I identified further areas that required investigation, namely:

- A need to fully understand the oversight function of Parliament.
- The relationship between separation of powers between different arms of government (i.e. the Executive, Legislature and Judiciary) and oversight in light of the need for transparency and accountability.
- Other political parties' perception of the Portfolio Committee on Trade and Industry's past performance in terms of overseeing trade negotiations.
- The extent to which the DTI consults stakeholders.

Furthermore, a number of additional stakeholders were identified to do more targeted sampling around these areas. These interviews yielded the following raw data (see further extracts in Appendix B):

TABLE 4: EXTRACTS OF RAW DATA FROM OTHER INTERVIEWS

| Participant | Response |
|--------------------------|--|
| Parliamentary official 4 | “I think the principle is to oversee the actions of the Executive that is the fundamental thing as it says in the Constitution. To see that the Executive is doing what it is supposed to do in terms of what they are saying to the public, how the budget are being implemented by the Executive. If the outcome that they wanted to achieve are being achieved and ... a... the parliament needs to oversee that particular process.” |

3.2.2 DOCUMENTARY SOURCES

Portfolio Committee on International Relations and Cooperation

The documentary sources for the Portfolio Committee on International Relations and Cooperation’s process on the role of Parliament in treaty-making processes were considered in relation to different stakeholders’ perspectives, as well as the committee’s findings and recommendations and their implication for trade agreements. I reviewed the report of the Portfolio Committee on International Relations and Cooperation and the related presentations and papers for pertinent information related to the oversight of the treaty-making process in general, and particularly for trade negotiations where possible. I went through these documents paragraph by paragraph to determine the relevant data.

The following examples of extracts of data from the Portfolio Committee on International Relations and Cooperation’s process were used. From the Portfolio Committee on International Relations and Cooperation’s report (2013, p. 3945):

“However, it was not clear how Parliament, as representative of the people, related to the Executive in the process. South Africa’s role in the negotiation of treaties and the domestic implementation of treaty obligations was regarded as having aroused considerable interest in Parliament, including civil society, business and other sectoral formations. Parliament has no influence over the outcome of treaties, much as the desire would be to be able to monitor the negotiations by being kept fully informed as they unfold, and by having an opportunity to express to the Executive, their political views. As it was, Parliament would come in at the very end for approval needed for the ratification or otherwise of these treaties.”

From the underlying documents presented to the committee, two were relevant to my study. These were a presentation by the Department of International Relations and Cooperation and a paper by Salim Nakhjavanii dated 28 May 2010. Extracts from these relevant to the oversight over trade negotiations included:

- “International practice shows that States act in the international arena by means of the executive arms of government, as the institution representing the State
- A State’s constitutional arrangements will determine the role Parliament plays in conclusion of treaties
- In many States Parliament has no role and treaty-making is an exclusive executive prerogative
- Some constitutions assigned an oversight role to Parliament, as is provided for in Section 231 of the South African Constitution” (Department of International Relations and Cooperation, 2010, p. 14)

“Experience in other jurisdictions suggests that a field of practice, permitted by the Constitution but as yet unoccupied, may well be open to Parliament. Furthermore, there would appear to be several sound reasons of public policy favouring enhanced parliamentary participation in treaty-making and implementation - chief among them the increasing domestic impact of international agreements, including the impact on individual rights, thus engaging the responsibilities of the legislative authority; the preservation of checks and balances; and the need for enhanced democratic accountability, transparency and fairness in the work of intergovernmental organisations which, in the absence of political will for organisational reform, can be mitigated by greater parliamentary participation at the domestic level.” (Nakhjavanii, 2010, p. 9)

Portfolio Committee on Trade and Industry

Although the committee had adopted six reports that had specific references to trade-related oversight activities, I focused on three tabled reports. The reasons for this being that these held specific insights into the oversight function. While the committee had ratified two trade agreements, I could only find one of these reports in Parliament’s official publication, namely the ATC. The following tabled reports were reviewed in as far as they related to the oversight of trade negotiations or the ratification of trade agreements as part of my data sources:

- Report of the Portfolio Committee on Trade and Industry on the Agreement on the Amendment of Annex IV and VI of the Trade, Development and Cooperation Agreement between the Republic of South Africa, on the one part, and the European Community and its Member States, on the other part, regarding certain agricultural products (referred to as the “Cheese Agreement”), dated 29 January 2013 (Portfolio Committee on Trade and Industry, 2013a).
- Report of the Portfolio Committee on Trade and Industry on its Oversight on Regional Integration Efforts, Intra-African and Global Trade from 2009 to 2013, dated 13 November 2013 (trade report) (Portfolio Committee on Trade and Industry, 2013b).
- Report of the Portfolio Committee on Trade and Industry on its activities undertaken during the 4th Parliament (May 2009 – March 2014), adopted on 12 March 2014 (legacy report) (Portfolio Committee on Trade and Industry, 2014).

In addition, I considered the number and topics of meetings held by the Portfolio Committee on Trade and Industry from June 2009 to March 2014 to assess the relative importance assigned to trade-related oversight

activities. The Parliamentary Monitoring Group's (2014) record of committee meetings provided this information.

The following examples of extracts of data from the Portfolio Committee on Trade and Industry's reports were used. From its legacy report (Portfolio Committee on Trade and Industry, 2014, p. 1742-1743):

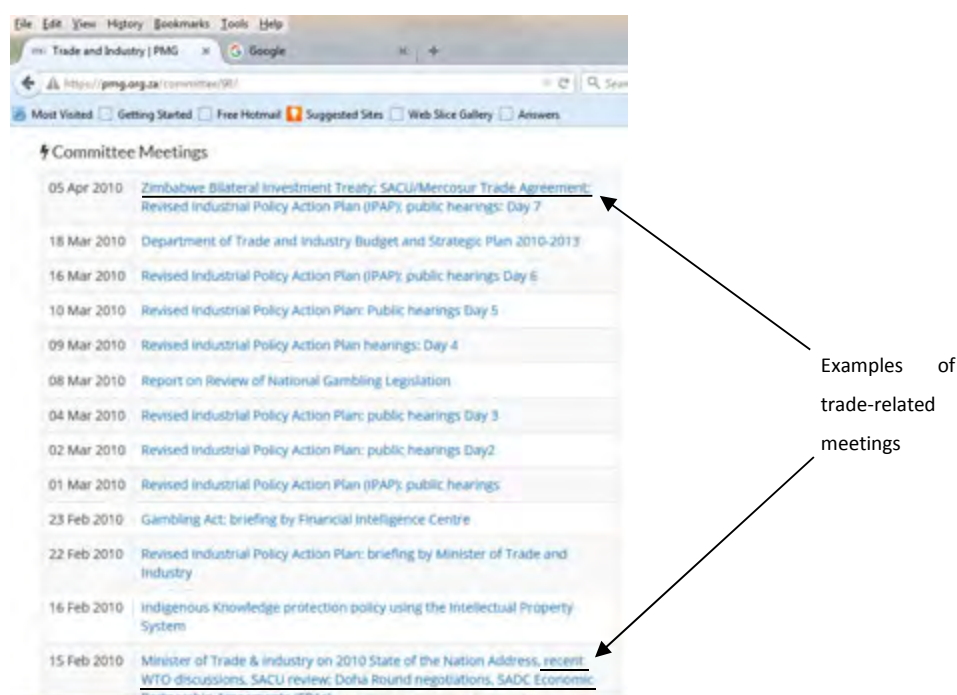
"8th WTO Ministerial Conference, Switzerland: To join the South African delegation to the Ministerial Conference, engage with its parliamentary counterparts and to oversee the progress made in relation to the Doha Round negotiations and to understand the implications of decisions made at this forum, so as to ensure a developmental outcome for trade negotiations."

"9th WTO Ministerial Conference, Bali, Indonesia: To join the South African delegation to the Ministerial Conference, engage with its parliamentary counterparts and to oversee the progress made in relation to the Doha Round negotiations and to understand the implications of decisions made at this forum, so as to ensure a developmental outcome for trade negotiations."

From its trade report (Portfolio Committee on Trade and Industry, 2013a, p. 5942):

"In 2010, the committee was of the view that the current practice, of Parliament merely ratifying international trade agreements, dilutes the power of the oversight instrument, which can be used effectively to support trade policy. Therefore, consideration should be given to strengthening cooperation between the Executive and the Committee before the execution of an agreement thus to avoid different approaches and possible divergence between the stages of execution and ratification of an agreement within the Constitutional confines."

From the Parliamentary Monitoring Group's (2014) record of committee meetings:



A complete list of committee meetings related to trade for the period under review is provided in Appendix B.

3.3 DATA ANALYSIS

The outcomes of the three levels of coding unpacked in the methodology chapter are described below.

3.3.1 LEVEL I CODING: SUBSTANTIVE OR OPEN CODES

The raw data was open coded to create propositions in the form of sentences with a subject, verb and object. Examples of these are presented in Table 5 below and a full extract for this concept is available in Appendix B.

TABLE 5: EXAMPLES OF PROPOSITIONS DEVELOPED FROM RAW DATA

| Participant | Raw data | Proposition |
|-------------|---|--|
| Member 1 | "Agreements come for ratification by Parliament but the participation of Parliament through the portfolio committee in the negotiations themselves that I think is a weakness. And it's a weakness that we have as a committee observed..." | Lack of participation by the committee in the negotiations is a weakness. |
| Member 1 | "A lot more interaction needs to happen within parliament through the processes of trade agreement negotiations before agreements are struck and Parliament is asked to ratify." | More interaction must happen in Parliament regarding the processes of trade negotiations before agreements are signed. |

| Participant | Raw data | Proposition |
|-------------|---|---|
| Member 1 | "It is critical for our trade negotiators to take mandate from Parliament so that Parliament is always able to advise according to policy objectives that needs to be achieved through those trade agreements." | It is critical that trade negotiators receive a mandate from Parliament. Parliament should be able to advise according to policy objectives that need to be achieved through those trade agreements. |

The first five interviews (see Section 3.2.1) yielded 255 propositions. In some cases, the propositions were a direct quote of the raw data. The other interviews yielded over 390 propositions. An example of these propositions is provided below.

TABLE 6: EXAMPLES OF PROPOSITIONS DEVELOPED FROM RAW DATA

| Participant | Raw data | Proposition |
|--------------------------|--|---|
| Parliamentary official 4 | "I think the principle is to oversee the actions of the Executive that is the fundamental thing as it says in the <i>Constitution</i> . To see that the Executive is doing what it is supposed to do in terms of what they are saying to the public, how the budget are (sic) being implemented by the Executive. If the outcome that they wanted to achieve are being achieved and ... a... the parliament needs to oversee that particular process." | Parliamentary oversight is to oversee the actions of the Executive. |
| | | Parliamentary oversight considers how the budget is being implemented by the Executive. |

In total, 87 propositions were developed from the documentation for the Portfolio Committee on International Relations and Cooperation's process. Examples of these are provided in Table 7 below.

TABLE 7: EXAMPLES OF PROPOSITIONS DEVELOPED FROM DOCUMENTATION FOR THE PORTFOLIO COMMITTEE ON INTERNATIONAL RELATIONS AND COOPERATION'S PROCESS

| Source | Extracts from Documentary Sources | Proposition |
|--------------------------------------|--|---|
| Portfolio Committee on International | "However, it was not clear how Parliament, as representative of the people, related to the Executive in the process. South Africa's role in the negotiation of | Parliament is the representative of the people. Parliament does not have a clear |

| Source | Extracts from Documentary Sources | Proposition |
|--|--|---|
| Relations and Cooperation (2013, p. 3945) | treaties and the domestic implementation of treaty obligations was regarded as having aroused considerable interest in Parliament, including civil society, business and other sectoral formations. Parliament has no influence over the outcome of treaties, much as the desire would be to be able to monitor the negotiations by being kept fully informed as they unfold, and by having an opportunity to express to the Executive, their political views. As it was, Parliament would come in at the very end for approval needed for the ratification or otherwise of these treaties.” | <p>process on how to relate to the Executive during negotiations.</p> <p>Parliament has no influence over the outcome of treaties.</p> <p>Parliament should be able to monitor the development of negotiations by being fully informed as they unfold.</p> <p>Parliament should have an opportunity to express its political views to the Executive.</p> <p>Currently, Parliament comes in when the treaty must be approved for ratification.</p> |
| Department of International Relations and Cooperation (2010, p. 14) | <ul style="list-style-type: none"> • “International practice shows that States act in the international arena by means of the executive arms of government, as the institution representing the State • A State’s constitutional arrangements will determine the role Parliament plays in conclusion of treaties • In many States Parliament has no role and treaty-making is an exclusive executive prerogative • Some constitutions assigned an oversight role to Parliament, as is provided for in Section 231 of the South African Constitution” | <p>The executive in many countries represent their states in the international arena.</p> <p>Parliament's role in concluding treaties is determined by a country's constitution.</p> <p>The Constitution assigns Parliament an oversight role by requiring it to provide its approval for ratification.</p> |
| Nakhjavanii (2010, p. 9) | “Experience in other jurisdictions suggests that a field of practice, permitted by the Constitution but as yet unoccupied, may well be open to Parliament. Furthermore, there would appear to be several sound reasons of public policy favouring enhanced parliamentary participation in treaty-making and implementation - chief among them the increasing domestic impact of international agreements, including the impact on individual rights, thus engaging the | <p>One of the main reasons for enhanced parliamentary participation in treaty making and participation is the increasing domestic impact of international agreements.</p> <p>Impacts on individual rights engages the responsibility of the</p> |

| Source | Extracts from Documentary Sources | Proposition |
|--------|--|---|
| | responsibilities of the legislative authority; the preservation of checks and balances; and the need for enhanced democratic accountability, transparency and fairness in the work of intergovernmental organisations which, in the absence of political will for organisational reform, can be mitigated by greater parliamentary participation at the domestic level.” | <p>legislative authority.</p> <p>The need to preserve checks and balances requires greater parliamentary participation in treaty making at the domestic level.</p> <p>The need for enhanced democratic accountability, transparency and fairness in the work of intergovernmental organisations matters of foreign policy and participation in international affairs.</p> |

In total, 21 propositions were developed from the documentation for the Portfolio Committee on Trade and Industry. Examples of these are provided in Table 8 below.

TABLE 8: EXAMPLES OF PROPOSITIONS DEVELOPED FROM DOCUMENTATION FOR THE PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY’S PROCESS

| Source | Extracts from Documentary Sources | Proposition |
|--|---|---|
| Portfolio Committee on Trade and Industry (2014, p. 1742-1743) | <p>“8th WTO Ministerial Conference, Switzerland: To join the South African delegation to the Ministerial Conference, engage with its parliamentary counterparts and to oversee the progress made in relation to the Doha Round negotiations and to understand the implications of decisions made at this forum, so as to ensure a developmental outcome for trade negotiations.”</p> <p>“9th WTO Ministerial Conference, Bali, Indonesia: To join the South African delegation to the Ministerial Conference, engage with its parliamentary counterparts and to oversee the progress made in relation to the Doha Round negotiations and to understand the implications of decisions made at this forum, so as to ensure a developmental outcome for trade negotiations.”</p> | <p>Attendance of the WTO Ministerial Conference has provided an opportunity to oversee the Doha Round negotiations.</p> <p>Attendance of the WTO Ministerial Conference has assisted in an improved understanding of the Doha Round negotiations.</p> |

| Source | Extracts from Documentary Sources | Proposition |
|--|---|--|
| Portfolio Committee on Trade and Industry (2013a, p. 5942) | “In 2010, the committee was of the view that the current practice, of Parliament merely ratifying international trade agreements, dilutes the power of the oversight instrument, which can be used effectively to support trade policy. Therefore, consideration should be given to strengthening cooperation between the Executive and the Committee before the execution of an agreement thus to avoid different approaches and possible divergence between the stages of execution and ratification of an agreement within the Constitutional confines.” | <p>Parliament only ratifying trade agreements dilutes the oversight instrument.</p> <p>Oversight over trade negotiations can support trade policy.</p> <p>Cooperation between the Executive and Parliament is necessary to avoid different approaches between the stages of execution and ratification of an agreement within the Constitutional confines.</p> |

3.3.2 LEVEL II: CATEGORISATION

The first level of categorisation of the initial interview data yielded 20 categories. Propositions were grouped based on whether they pertained to a similar topic. In terms of oversight, the propositions in Table 5 were grouped into a category named “Parliament’s role in terms of trade negotiations”.

Other initial categories pertaining to parliamentary oversight were:

- The nature of oversight.
- Benefits of the oversight function.
- Parliament’s attitude towards ratification.
- Capacity to oversee trade negotiations.
- Parliament’s role as the representative of the people.
- Parliament’s engagement with government.
- The perception of oversight over trade policy.
- Oversight over the implementation of trade agreements.
- The role of a Member of Parliament.
- The advantage of Parliament’s public participation process to broaden participation within the trade negotiation process.
- The role of Parliaments in other jurisdictions in terms of oversight during trade negotiations.

The second cluster of initial categories related to the Executive and the DTI’s role in trade negotiations and trade policy. These categories were:

- The Executive's role in the trade negotiations process.
- The negotiating process.
- Government's engagement with affected stakeholders, namely business and labour mainly through NEDLAC.
- Intra-governmental relations and coordination in terms of trade negotiations.
- The role of the Department of International Relations and Cooperation in initiating and concluding trade agreements without the DTI.

Three other initial categories were developed that related to trade policy. These were the interface between trade and economic policies; trade in services; and trade policy in relation to the Southern African Customs Union, African relations and other trading partners.

3.3.3 LEVEL III: BASIC SOCIAL-PSYCHOLOGICAL PROCESS IDENTIFIED

The central theme emerging appears to relate to how the oversight function can complement the Executive's role while ensuring that the trade negotiations process is transparent and the Executive is held accountable so that the broader public benefits from the conclusion and implementation of trade agreements. In addition, the current challenges, both institutional and capacity, that impede effective oversight over the Executive.

3.4 CONCEPT DEVELOPMENT

Five categories emerged from the data and a detailed description of each is available below. These are:

- The effectiveness of parliamentary oversight over trade negotiations,
- The level of MPs' capacity to oversee trade negotiations,
- The level of Parliamentary support capacity for MPs,
- The degree of the Executive's accountability to Parliament, and
- The degree of public participation.

3.4.1 EFFECTIVENESS OF PARLIAMENTARY OVERSIGHT OVER TRADE NEGOTIATIONS

The concept of the "Effectiveness of parliamentary oversight over trade negotiations" was developed and a number of antecedents, defining attributes and consequences/outcomes evolved from the data. These are listed in Figure 3 and described below:

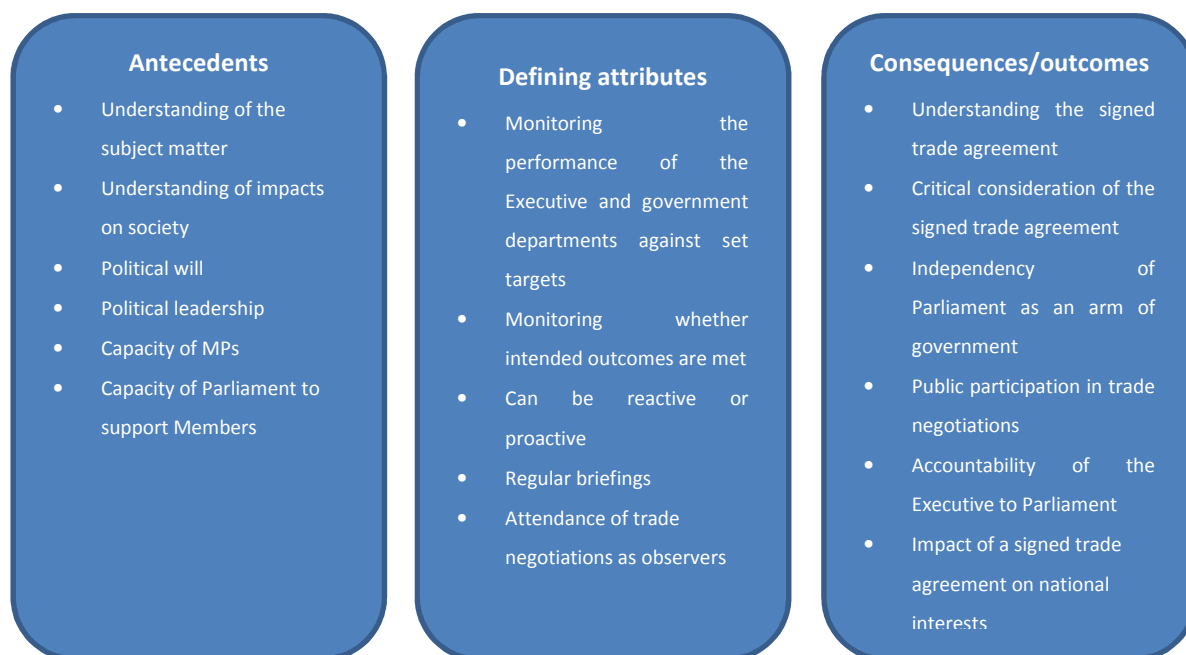


FIGURE 3: COMPONENTS OF THE “EFFECTIVENESS OF PARLIAMENTARY OVERSIGHT OVER TRADE NEGOTIATIONS” CONCEPT BASED ON THE DATA

Effective parliamentary oversight involves monitoring how the Executive and government departments perform in relation to set objectives and targets, and whether the intended outcomes are met. Parliamentary oversight can be either reactive or proactive. Reactive oversight involves interrogating the information received from the relevant government department while proactive oversight is forward looking and actively identifies and addresses future challenges.

In particular, parliamentary oversight over trade negotiations should involve regular briefings at various stages of the trade negotiation process for Parliament to provide input into the process. It could also include MPs attending particular segments of negotiations to observe the process and understand the nuances and concerns of the particular trade negotiation.

Effective parliamentary oversight requires MPs to be interested in the subject matter and the impacts on society and to be willing and prepared to make unpopular choices to benefit the broader society. Specifically, it is dependent on the type of leadership within the committee. In addition, the effectiveness of parliamentary oversight over trade negotiations is dependent on MPs and the support staff’s capacity in terms of knowledge, understanding and other financial and non-financial resources. It also necessitates that there are mechanisms in place to ensure that the Executive does address challenges identified by Parliament so that the intended outcome is achieved.

The process of effectively overseeing trade agreements should empower Parliament to engage with a signed trade agreement, which requires approval for ratification, as MPs would understand the developments that took place during the negotiation process. Thus, moving Parliament away from being perceived as merely a rubber-stamper of trade agreements and regaining its power as an independent arm of the government from

the Executive. Effective parliamentary oversight of trade negotiations should lead to more trade agreements that better serve national interests and support internal domestic priorities of government.

Furthermore, oversight that is more effective could lead to greater indirect public participation, as currently excluded interests could also be captured, while providing information to the broader public constituencies. In addition, it could contribute to improved accountability of the Executive in terms of trade agreements to ensure that the public benefits and to enforcing rules-based governance and the rule of law.

3.4.2 *LEVEL OF MEMBERS OF PARLIAMENT’S CAPACITY TO OVERSEE TRADE NEGOTIATIONS*

The following antecedents, defining attributes and consequences/outcomes evolved from the data into the concept of the “Level of MPs’ capacity to oversee trade negotiations” (see Figure 4):

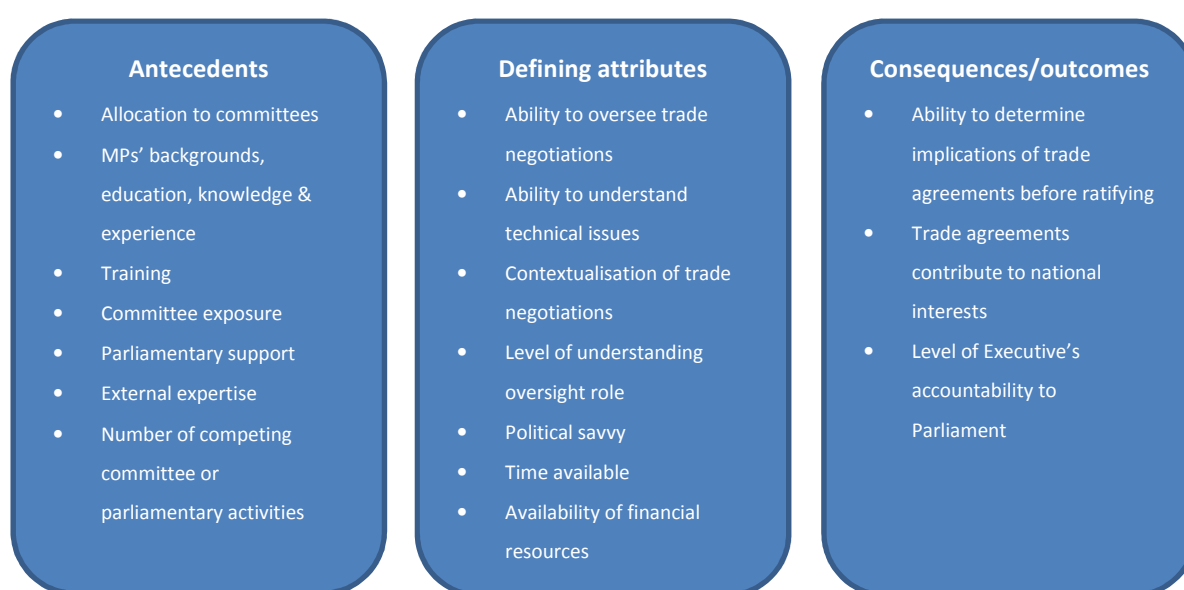


FIGURE 4: COMPONENTS OF THE “LEVEL OF MEMBERS OF PARLIAMENT’S CAPACITY TO OVERSEE TRADE NEGOTIATIONS” CONCEPT BASED ON THE DATA

Trade negotiations are complex due to the technical nature thereof. MPs’ capacity refers to their ability to “do or achieve” oversight over trade negotiations and their ability to understand and comprehend the issues prevalent in trade agreements. This ability to understand and comprehend extends to contextualising a proposed trade agreement in relation to the South African economy, or that of any partner countries to achieve national interests and further the regional development strategy. It also refers to the degree to which MPs have the ability to understand their oversight role. Furthermore, it refers to their ability to understand how the WTO, and the world trading system function, as well as the trading lingo used. Although these aspects are critical to understand and fully appreciate a trade negotiation, MPs are mainly expected to have the political savvy to fulfil an ideological role rather than a technical one.

MPs' capacity also refers to the available time and financial resources available to actively oversee trade negotiations. Time and financial resources within a committee can be limited by competing oversight or other activities or externally through the broader parliamentary programme or priorities.

The current political process of allocating MPs to committees does not necessarily require that they possess the necessary capacity to oversee the mandate of that committee. Therefore, MPs' individual backgrounds, education, knowledge and experience determines the initial level of their capacity to oversee trade negotiations. Furthermore, the level of continuity within the Portfolio Committee on Trade and Industry's membership influences the level of MPs' capacity to oversee trade negotiations.

Members' capacity can be developed through training, exposure to trade negotiations and information in this regard. Members' capacity can be enhanced or supplemented by parliamentary support or using external expertise from industry, think tanks, experts and international organisations involved in trade matters. In addition, as trade negotiations can be quite lengthy processes that overlap parliamentary terms, the ability to retain institutional knowledge or memory by parliamentary support also affects MPs' capacity.

The benefits of increasing the level of MPs' capacity to oversee trade negotiations would be Parliament's ability to have the knowledge and understanding to not only rubberstamp trade agreements but to interrogate the implications of such an agreement. An increased level of MPs' capacity to oversee trade negotiations would also result in an ability to ensure that the future consequences and obligations of a trade agreement will contribute to the national interests and not inhibit these. Furthermore, this will improve the degree to which the Executive is accountable to Parliament, as there will be a better understanding of the impact of the Executive's actions in relation to signing trade agreements.

3.4.3 LEVEL OF PARLIAMENTARY SUPPORT CAPACITY FOR MEMBERS OF PARLIAMENT

The following antecedents, defining attributes and consequences/outcomes evolved from the data into the concept of the "Level of parliamentary support capacity for Members of Parliament" (see Figure 5):

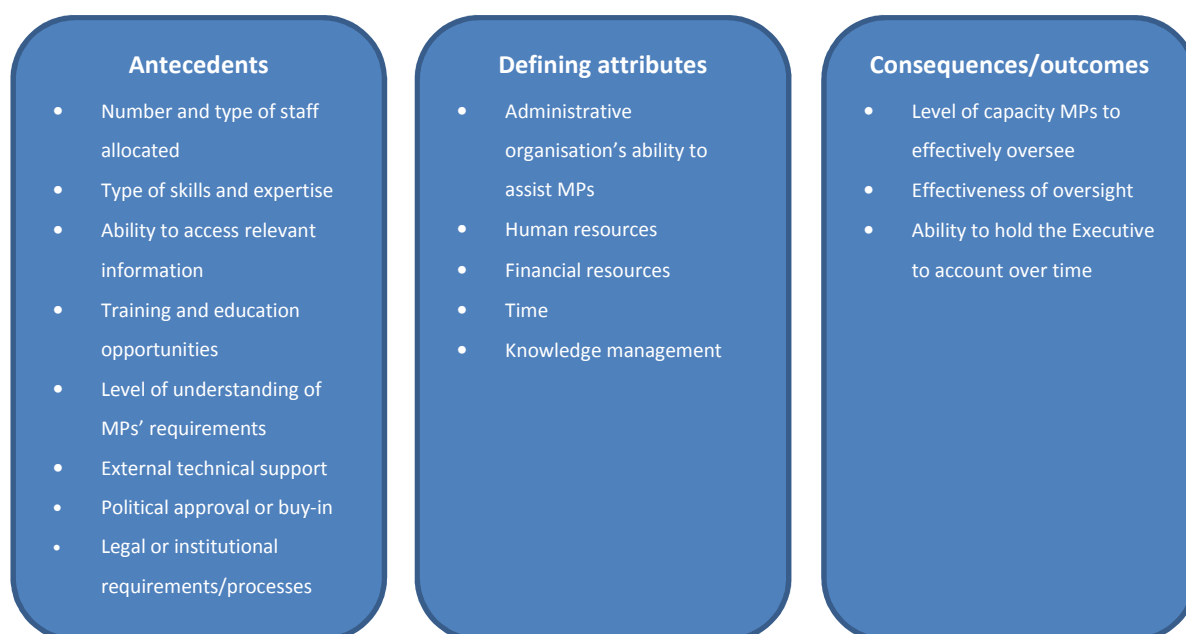


FIGURE 5: COMPONENTS OF THE “LEVEL OF PARLIAMENTARY SUPPORT CAPACITY FOR MEMBERS OF PARLIAMENT” CONCEPT BASED ON THE DATA

Parliamentary support capacity for MPs refers to the administrative organisation’s ability to assist MPs in order for them to perform effective oversight. This has at least four dimensions, namely: (i) human resources, (ii) financial resources, (iii) time, and (iv) knowledge management.

The human resource dimension focuses on the level of technical support in terms of research, legal and technical advice capacity that parliamentary officials must provide to MPs. The number and type of staff allocated to the committee and the type of skills and expertise they have relative to the committee’s mandate primarily determines the level of technical support provided. Furthermore, the ability to access relevant information and regular training and education opportunities influences the appropriateness of support provided to MPs. In addition, the level of understanding of what MPs require both at a managerial and support function plays a significant role in the provision of appropriate technical support. Support from think tanks, external experts and industry can boost the level of technical support offered by parliamentary officials.

In terms of the financial resources, the parliamentary administration is responsible for allocating financial resources subject to political approval. Therefore, the political and administrative priority given to the oversight over trade negotiations drives the level of financial resources allocated to this.

The amount of time allocated to oversight is a component of the level of parliamentary support capacity. However, the parliamentary programme at a political level largely drives the time allocation. Although the parliamentary officials would propose committee programmes, political buy-in is necessary for these to be implemented. In addition, certain legal or institutional requirements can govern the time available for certain types of committee activities.

The ability to manage institutional knowledge is a critical dimension of the level of parliamentary support capacity, as trade negotiations are often lengthy and overlap parliamentary terms. This would require having institutional processes in place to control record keeping in terms of committee oversight activities, as well as guidelines on the type of information to be recorded.

The level of parliamentary support capacity to MPs influences the level of capacity MPs have to conduct effective oversight. Improved level of parliamentary support capacity to MPs will lead to more effective oversight by MPs and an increased ability to hold the Executive to account. In particular, the ability to maintain institutional memory and records helps maintain continuity in interacting with the Executive in relation to a trade negotiation and its resultant agreement.

3.4.4 THE DEGREE OF THE EXECUTIVE'S ACCOUNTABILITY TO PARLIAMENT

The following antecedents, defining attributes and consequences/outcomes evolved from the data into the concept of the “degree of the Executive’s accountability to Parliament” (see Figure 6):

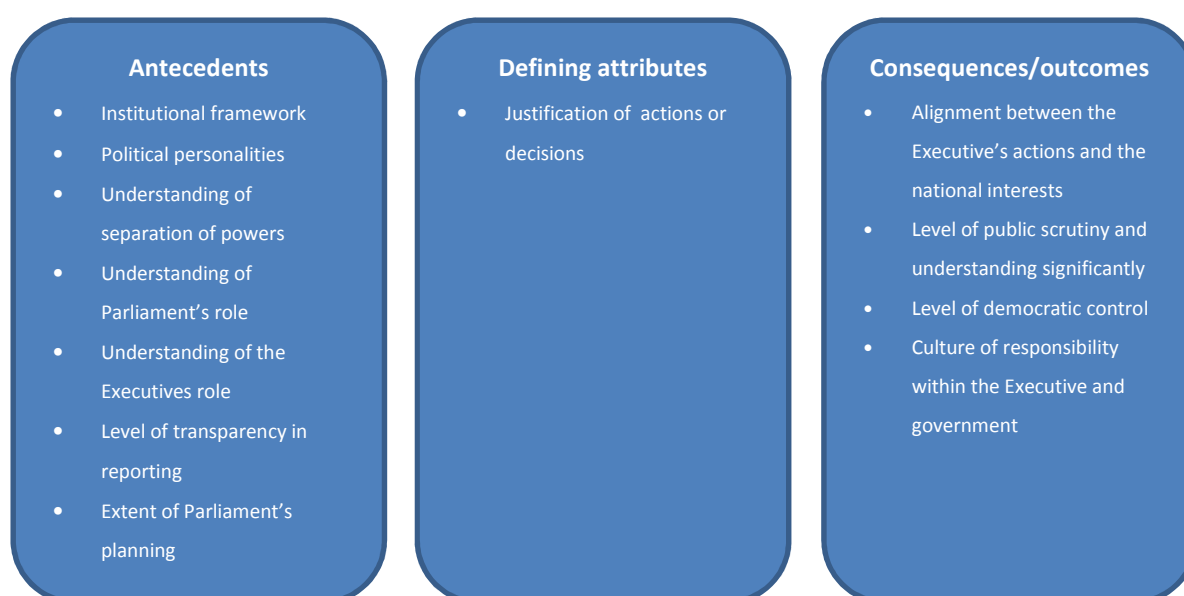


FIGURE 6: COMPONENTS OF THE “DEGREE OF THE EXECUTIVE’S ACCOUNTABILITY TO PARLIAMENT” CONCEPT BASED ON THE DATA

Generally, accountability refers to being required or expected to justify one’s actions or decisions (Soanes & Stevenson, 2004). In this case, it is the Constitutional requirement of the Executive to justify its actions or take responsibility for it to Parliament, as the citizenry elects MPs to represent it. This involves the Executive subjecting itself to the scrutiny of Parliament in an open and transparent manner to determine whether it has achieved what it set out to do and how it achieved this.

The degree of the Executive’s accountability to Parliament is dependent on the institutional framework set in law and by Parliament’s rules. A clear and enforceable institutional framework promotes greater accountability and limits the influence of political personalities. In conjunction with this, a clear understanding of the concept of separation of powers and the roles of the Executive *vis a vis* Parliament is required.

The institutional or legal framework should set forth a mechanism for either the Executive to submit certain types of information at particular intervals and/or for Parliament/committees to request this information. Therefore, transparent reporting of the Executive's actions is necessary. The Executive and government officials' willingness to report transparently has a significant influence on the degree of Executive accountability.

Furthermore, Parliament/committees must plan their oversight activities and prioritise oversight of Executive action. This planning must consider time allocation, the types of actions that it wants to oversee and provide for adequate human and other capacity to be able to exercise robust oversight over the Executive.

The greater the degree of Executive accountability, the more likely there will be an alignment between the Executive's actions, i.e. decisions while negotiating and signing a trade agreement, and the national interests. Greater accountability will also lead to the public being able to scrutinise and understand the policy choices that are being made by the Executive and challenge these where they significantly impact the public. In addition, it will establish or restore a level of democratic control. Furthermore, it can lead to a culture of responsibility within the Executive and government.

3.4.5 THE DEGREE OF PUBLIC PARTICIPATION

The following antecedents, defining attributes and consequences/outcomes evolved from the data into the concept of the "degree of public participation" (see Figure 7):

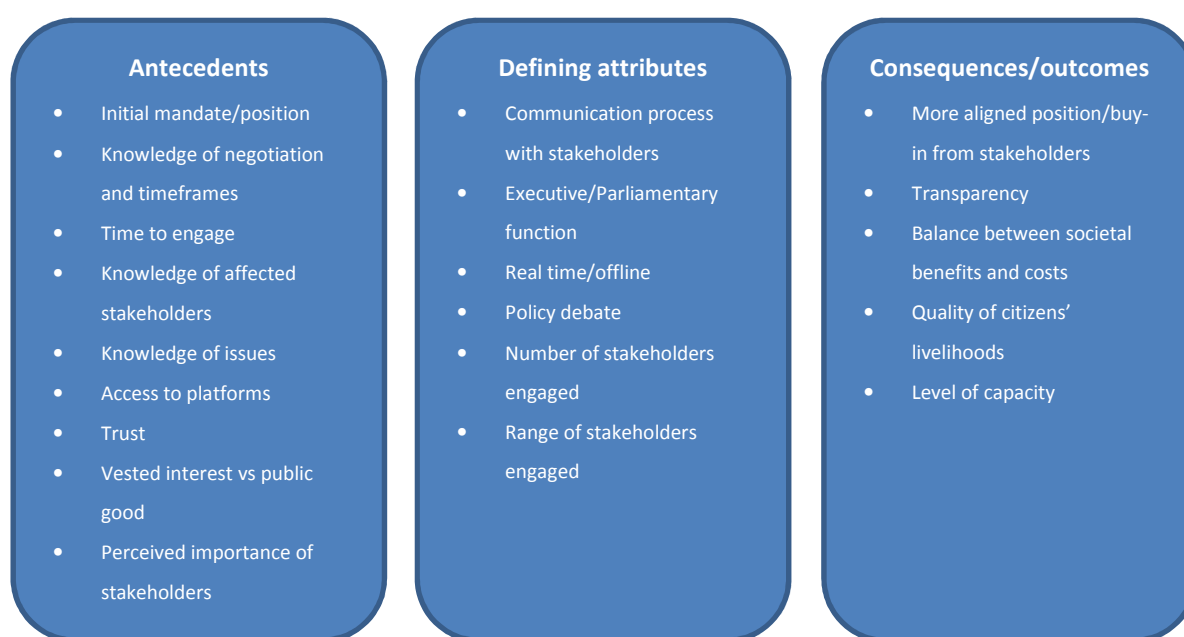


FIGURE 7: COMPONENTS OF THE "DEGREE OF PUBLIC PARTICIPATION" CONCEPT BASED ON THE DATA

Public participation refers to a communication process initiated by the Executive or Parliament on a specific subject matter with the affected stakeholders and/or the general public. However, the focus of this concept will be on the Executive's public participation process with Parliament being a possible stakeholder in this

process. It can take place in real time or offline through various communication channels. The intention of this communication process is to receive input on the subject matter or to debate the matter. Specifically, the number and range of stakeholders engaged and the depth of the engagement indicates a measure of the degree of public participation. So, in the case of developing a mandate for a trade negotiation, the degree of public participation by the Executive could be measured by whether a range of stakeholders were consulted, e.g. labour, civil society, different industry players and other government departments, or only a few of these. In addition, the number of stakeholders engaged, e.g. only major players, those lobbying the department, or also smaller and relatively less politically significant businesses, could measure it; also whether substantive aspects are debated among the parties.

However, the number and range of stakeholders engaged is determined by the stakeholders' access to the communication platforms being used. Therefore, if institutionalised platforms are used, access to these may be limited on the basis of membership to these, or hampered by the degree of bureaucratic processes that must be followed. The more effort and resources stakeholders must spend on accessing public participation platforms, the less likely they are to engage unless they have substantial resources and a stake in the outcome of this process.

Furthermore, stakeholders would have to have prior knowledge of the negotiation, have time to engage and have technical, historical or political knowledge of the issues at hand. Time to engage is critical to the size of the stakeholder, as the perceived benefit of engaging must outweigh the cost of engaging. The smaller a stakeholder is, the less time and resources they have to invest in preparing and engaging in public participation processes.

On the other hand, the Executive must be able to fit its public participation process in the existing timeframes of a trade negotiation. Its awareness of who the affected stakeholders are and the effectiveness of its mechanisms to identify affected stakeholders are determinants of the range and number of stakeholders that it can possibly engage. However, its available timeframes and the perception of which stakeholders are most important to engage will be the eventual deciding factor on how many and which stakeholders are actively approached and listened to.

Furthermore, the degree of trust that exists between the Executive and stakeholders will influence the degree of public participation. A lack of trust could be related to whether all stakeholders perceive that their concerns will in fact be considered and incorporated, or at least responded to in a constructive manner. The degree of trust can affect the willingness of stakeholders to engage and/or whether the process is taken seriously. If the process is not taken seriously or respected by stakeholders, they will spend less time on the matter and commit fewer resources to it. Stakeholders' trust could be influenced by their perception of whether the Executive is securing vested interests or negotiating for the public good. Likewise, where the Executive have a lack of trust of its stakeholders, it may exercise more caution in the public participation process and similarly limit the time and resources spent on this. The Executive may trust its stakeholders to the extent it perceives

that stakeholders are overly critical of its governance and the Executive's commitment to accountability and transparency to the public.

The degree of public participation determines the alignment between the Executive and stakeholders regarding the positions taken and the degree of buy-in from stakeholders. The more stakeholders and the wider the range of these engaged, the more likely positions taken will incorporate the concerns of a broader segment of the population. Therefore, it influences the degree of balance between the broader societal benefits and costs resulting from the position taken by the Executive. If overall the resultant societal benefits outweigh the costs, the quality of citizen's livelihoods will increase. However, if the societal costs outweigh the benefits, the overall quality of citizen's livelihoods will decrease.

The degree of public participation will also affect the level of transparency of the Executive's decision-making process, as this influences the awareness and exposure of stakeholders and the public to the issues related to the subject matter. Similarly, a greater degree of public participation increases the capacity levels of stakeholders that have engaged in these processes, as they understand the process better, are more fluent in the issues and will be more likely to participate in future processes.

3.5 CONCLUSION

This chapter provided evidence of the research process followed for the "effectiveness of parliamentary oversight over trade negotiations" category from the raw data to categorisation. It then culminated in the development of five main concepts that emerged from the data, which were described in detail. These concepts are: the effectiveness of parliamentary oversight over trade negotiations; the level of Members of Parliament's capacity to oversee trade negotiations; the level of parliamentary support capacity for Members of Parliament; the degree of the Executive's accountability to Parliament; and the degree of public participation. The next chapter covers the relevant theories pertaining to each concept, in relation to the key overarching or parent discipline emerging from literature.

4 LITERATURE REVIEW

4.1 INTRODUCTION

The previous chapter describes the key concepts that emerged from the grounded theory process, as well as evidence of the process followed to develop these. Unlike other studies, grounded theory requires the researcher to approach the study without a hypothesis or theory to test or apply. Therefore, the literature review is conducted at the end of the grounded theory process when key concepts have already emerged. This chapter outlines the approach followed for the literature review, describes the parent discipline, which the research results fall under, defines the concepts where the research problem, research question and research goals are located and analyses relevant theories related to each identified core variable or concept. Thus, it provides the theoretical context within which the study exists and contributes to.

4.2 APPROACH TOWARDS THE LITERATURE REVIEW

The purpose of the literature review in a grounded theory is to locate the research results or core variables within a body of knowledge from existing literature and to establish the parent discipline within which the study falls, i.e. to establish the theoretical context for the research. The approach followed involved a three-tier process that developed in a bottom-up manner to identify the parent discipline. Each tier used various sources per variable to analyse the relevant theories related to the variable. The three tiers were as follows:

- Tier 1: Literature review on the concept emerging through the literature review process, i.e. the parent discipline. The parent discipline identified was governance in the public sector.
- Tier 2: Literature review on the key variables extracted from the research problem, research question and research goals. These were (i) the effectiveness of parliamentary oversight, (ii) the level of institutional capacity, and (iii) the degree of horizontal accountability.
- Tier 3: Literature review on each of the core variables identified in section 3.4.

The literature review also highlighted possible causal relationships between the core variables or concepts.

4.3 TIER 1: PARENT DISCIPLINE – GOVERNANCE IN THE PUBLIC SECTOR

The literature review on the parent discipline, governance in the public sector, describes its nature and purpose. Three key concepts underpinning the parent discipline are identified and discussed. Concept analyses of each of these have then been developed.

The term “governance” has a number of definitions, ways of being understood, and/or applications in the public sector (Almquist, Grossi, van Helden, & Reichard, 2013). The International Federation of Accountants (2014, p. 10) defines it as “the arrangements put in place to ensure that the intended outcomes for stakeholders are defined and achieved”. Stoker (1998, p. 17) refers to it as the process of governing or creating the environment for “ordered rule and collective action”; creating governing mechanisms to manage

interactions between the public and private sector actors. He notes the wide ranging use of the term from purely a commitment to efficient and accountable government to the interdependence between public, private and voluntary sectors in a country and can be used at a number of levels from local government to global governance (Stoker, 1998, p. 18). Everest-Phillips (2012, p. 12) explains that governance involves the “processes and institutions through which citizens and groups articulate interests, exercise rights, meet obligations and mediate differences” so that the public authority or state can be used for the common good.

Almquist et al. (2013) describes governance as including “structures that clarify the responsibilities of the various stakeholders as regards the organization, approaches that foster the capabilities for meeting these responsibilities, and tools such as systems for internal control and external accountability”. The intention of this is to ensure accountability in terms of the achievement of public sector goals including service delivery and the impact of its policies on society.

While Edwards (2002, p. 51-52) likens modern-day governance to a way of handling all forms of organisational relationships. She further focuses on the elements or principles of good governance, which is meant to facilitate the performance of the public sector or other organisation. These are accountability, transparency, participation, relationship management and in certain cases efficiency and/or equity. Everest-Phillips (2012, p. 12) also focuses good governance as defined by the Commonwealth. He explains that the values of democracy, rule of law, human rights and “Just and Honest Government”, i.e. an open, transparent, fair and effective government who is subject to the rule of law and guarded by a strong civil society are foundational in this regard.

Good governance is characterised by predictability, openness, responsiveness, accountability and legitimacy (Du Toit, van der Walddt, Bayat, & Cheminais, 1998, p. 113; Everest-Phillips, 2012, p. 13). Everest-Phillips (2012, p. 13, 15) argues that good governance is essential for sustainable development and allowing citizens to influence the developments in their country through open, democratic processes. A number of other authors focus on the impact on accountability to the citizens affected by the actions and policy decisions of the state (Almquist et al., 2013; Edwards, 2002). Du Toit et al. (1998, p. 111) raise the impact of good governance on society’s trust in the government and the broader impact on societal norms and values that affect the fabric of society.

The Department for International Development (2008, p. 3-4) uses the CAR framework to understand governance. This represents state capability (C), accountability (A) and responsiveness (R). It considers the three elements to be overlapping and reinforcing elements that together ensure improvements in governance. However, they can exist in isolation and/or undermine each other. The degree of public participation acts as a common thread throughout these three elements.

The three areas identified within the governance in the public sector discipline are (i) the level of public accountability; (ii) the degree of capacity development; and (iii) the level of participatory governance.

4.3.1 *LEVEL OF PUBLIC ACCOUNTABILITY*

Du Toit et al. (1998, p. 112) notes that public accountability covers the “legislative, executive and judicial authorities” in terms of their delivery of service and their actions in relation to the public interest and includes organisational arrangements and work processes used. The United Nations (2015, p. 51) also refers to the action of “calling and holding institutions and officials to account in undertaking their duties and function” to ensure that government is responsive to the needs of the people. Public institutions are, therefore, expected to allow the public to scrutinise their decisions and/or actions, to be answerable for these and to be held liable for wrongful decisions/actions. For this to occur, public institutions are required to operate in a transparent manner and be subject to the rule of law (Du Toit et al., 1998, p. 115; United Nations, 2015, p. 51, 54). In addition, organisations must have appropriate control measures to enforce accountability (Du Toit et al., 1998, p. 119).

They go on to describe four types of accountability. The first type is bureaucratic accountability related to hierarchical systems with clear superior-subordinate relationships that entails close supervision. This is evident in employer-employee relationships. The second type is legal accountability which involves two autonomous parties with a formal agreement or arrangement for the one to monitor the other, such as the Parliament and government department oversight relationship. The third type is professional accountability where skilled or expert employees provide technical solutions. The fourth type is political accountability where there is a relationship between government officials and their constituents including the public, ministers and organisational leadership. (Du Toit et al., 1998, p. 114)

The United Nations (2015, p. 53) identifies vertical or hierarchical accountability to denote the traditional relationship of accountability. This is a vertical chain between the “electorate, Parliament, government, and the public service”, as well as formal accountability structures such as audit institutions and ombudsmen. This consists of aspects of the bureaucratic, legal and political accountability relationships denoted above. More modern types are shared and social accountability. Shared accountability usually occurs when more than one government agency or department is responsible for achieving an outcome or where there is a mix of public and private/civil responsibility in meeting an objective (United Nations, 2015, p. 57). In response to this change in accountability relationships, a new definition of accountability was proposed. This is “a relationship based on obligations to demonstrate, review, and take responsibility for performance, both the results achieved in light of agreed expectations and the means used” (United Nations, 2015, p. 61). While social accountability refers to a bottom-up approach, where citizens hold government accountable through formal or informal means (United Nations, 2015, p. 63-64).

However, the United Nations (2015, p. 51-53) also focus on two areas of accountability, namely financial accountability and accountability for performance. In terms of the former, accountability is related to whether public funds were spent on their intended purpose. This type of accountability strengthens public trust and promotes government officials to act in a lawful manner. It can also be leveraged by governments to access external financing from donors or other sources. The latter type of accountability centres on guiding,

monitoring and evaluating public institutions and programmes by internal and external stakeholders and could lead to improvements in these. This emphasises taking responsibility for the results and outcomes of decisions and actions taken so that public institutions can operate effectively and efficiently and the citizens' needs can be met.

Du Toit et al. (1998, p. 124) allude to the role that public participation plays in demanding public accountability. They argue that in areas where the public is actively involved or affected by government, the public is more responsive and demanding of accountability (Du Toit et al., 1998, p. 124). Everest-Phillips (2012, p. 15) implicitly concurs with this idea. He explains that governments should aim for increased citizen participation to promote accountability by providing information to as many citizens as possible in an open and transparent way. While the United Nations (2015: p. 59-60) argue that public participation and access to information should be underpinned by rights provided for in a country's constitution and should be written into freedom of information laws to ensure transparency and accountability. This should further be enforced using robust management and accountability systems. In addition, it raises the impact of long and complex implementation chains of the level of public accountability; as the longer the chain, the harder it is to establish who is responsible for what (United Nations, 2015, p. 62-63).

Furthermore, the role of informal institutions, such as informally organised special interest groups, should not be ignored. These can drive behaviour through the "politics of patronage, the exchange of favours within informal networks and the use of informal resources to collaborate, construct and maintain political parties and other organizations" (United Nations, 2015, p. 56). These relationships with government can undermine accountability and the public interest, as well as lead to marginalisation of other groups. However, the more constituencies in a country that are not committed to the rule of law, the less likely accountable governance can be realised through formal mechanisms (United Nations, 2015, p. 57).

Another way of introducing checks and balances for accountability is through creating structures that monitor performance. In the case of budgetary accountability, auditing institutions and public accounts committees in legislatures can oversee this and foster an environment for policies and services to be improved. Where accountability is lacking, there is often weak governance and a lack of state capacity. Therefore, existing institutional capacity and continuous capacity development in these structures is essential to ensure effective oversight over the government. (Everest-Phillips, 2012, p. 16)

High levels of public accountability can minimise waste and mismanagement of resources and corruption furthermore, it underpins good governance in the public sector so that efficient and effective services can be delivered to citizens (United Nations, 2015, p. 71-72)

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of the "level of public accountability" is depicted in Figure 8:

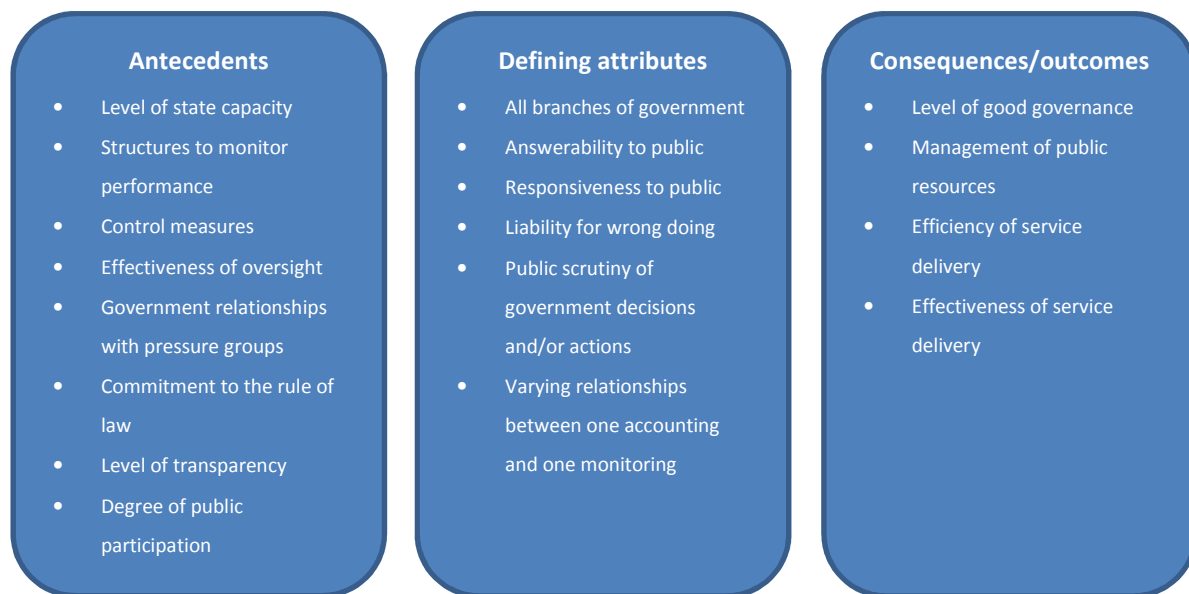


FIGURE 8: COMPONENTS OF THE “LEVEL OF PUBLIC ACCOUNTABILITY” CONCEPT

4.3.2 DEGREE OF CAPACITY DEVELOPMENT

The literature talks about capacity building and capacity development with some disagreement about whether these terms can be used interchangeable or not. Freeman (2010, p. 16-18) synthesises capacity development as an internal knowledge sharing process involving individuals, organisations and society to invoke change over time. This process requires the ownership of the participants to strengthen their existing capacities, so that the new capabilities developed are sustainable. This is considered to be a more holistic and collaborative approach than more traditional capacity building approaches; as it not only considers the gaps or deficit in capacity but the underlying causes for these deficits within the enabling environment.

Bhagavan and Virgin (2004, p. 3) refer to institutional capacity development as building fresh capacity and strengthening, mobilising and changing existing capacity appropriately to perform its mandated functions. They argue that this is largely an internal process that can be supported by external capacity building or technical assistance initiatives (Bhagavan & Virgin, 2004, p. 1-2). This can be done in terms of developing information and knowledge; developing human resources, i.e. competence and ability; enhancing governance aspects, such as efficiency, ensuring financial well-being, transparency and accountability and sustainability; providing technical and infrastructural resources, such as equipment and maintenance thereof; and strengthening the policy arena and instruments (Bhagavan & Virgin, 2004, p. 7-8).

On the other hand, Simister and Smith (2010, p. 5) use capacity building and capacity development interchangeable but they differentiate between the purposes of developing capacity. They present the notion of relatively simplistic technical capacity building, which is to address a specific issue related to an activity or activities, on the one hand; and more complex general capacity building, which is more holistic and focuses on broader capacity to meet core functions, on the other.

While Langaas, Odeck, and Bjørvig (n.d.) discusses institutional capacity building in terms of skills upgrading, procedural improvements and organisational strengthening, which is more aligned to the notion of capacity development. Therefore, they purport that it involves obtaining and integrating human, financial and other resources to effect change in individual behaviour, so that institutions or organisations can become more effective and efficient. Resources can be tangible, i.e. physical assets or 'hard' infrastructure such as machinery and equipment, organisational systems, legal and regulatory frameworks, natural resources and education; or intangible, i.e. 'soft' infrastructure such as social skills, experience, social capital, values and institutional culture. They emphasise the need for developing the intangible resources, as these influence how well the tangible resources are used to meet objectives.

Everest-Phillips (2012, p. 20) emphasises the need for interventions in terms of (i) the structures and systems of government, (ii) the administrative policies and processes, and (iii) capabilities and skills within the context of the public service.

The manner and extent to which the degree of capacity development changes is dependent on a number of factors. This includes the following. There should be a clear understanding or analysis of the historical and current context or environment within which capacity development initiatives are to be developed or implemented. This allows for a more strategic process to be followed and the correct aspect of capacity to be targeted. Therefore, information about the functions and the performance in relation to this, as well as existing capacity is pertinent. (Bhagavan & Virgin, 2004, p. 4) Furthermore, the degree of capacity development is dependent on the commitment or ownership of the affected individuals and/or leadership to the process and their actual priorities (Bhagavan & Virgin, 2004, p. 5). The greater the extent to which the demands of the affected stakeholders or participants in this process are incorporated, the more effective it will be. Thus it should be "owned" by the most affected stakeholders. (Bhagavan & Virgin, 2004, p. 1-2) In addition, the affected stakeholders' ability or willingness to learn is critical for the process, especially where capabilities are being addressed rather than resources and institutional structure.

Capacity development is also dependent on the time and financial resources available for initiatives and the degree of compromise between fulfilling short-term objectives and long-term objectives.

The power dynamics among partners in capacity development also determine the degree of success of these initiatives, especially where the one partner is a donor (Freeman, 2010, p. 20). Therefore, the funding mechanism is critical to the ownership of the process.

The expected outcomes of the capacity development process is to enhance the individual, institutional or societal capacity to improve the performance in relation to specific functions to meet specific objectives and/or to develop new capabilities to perform new functions. This capacity should preferably be sustainable over a longer period of time. (Bhagavan & Virgin, 2004, p. 5-6) Everest-Phillips (2012, p. 20) focuses on capacity development as being essential to achieve an "effective, responsive and well-managed public service", which is essential for achieving good governance objectives.

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of the “degree of capacity development” is depicted in Figure 9:

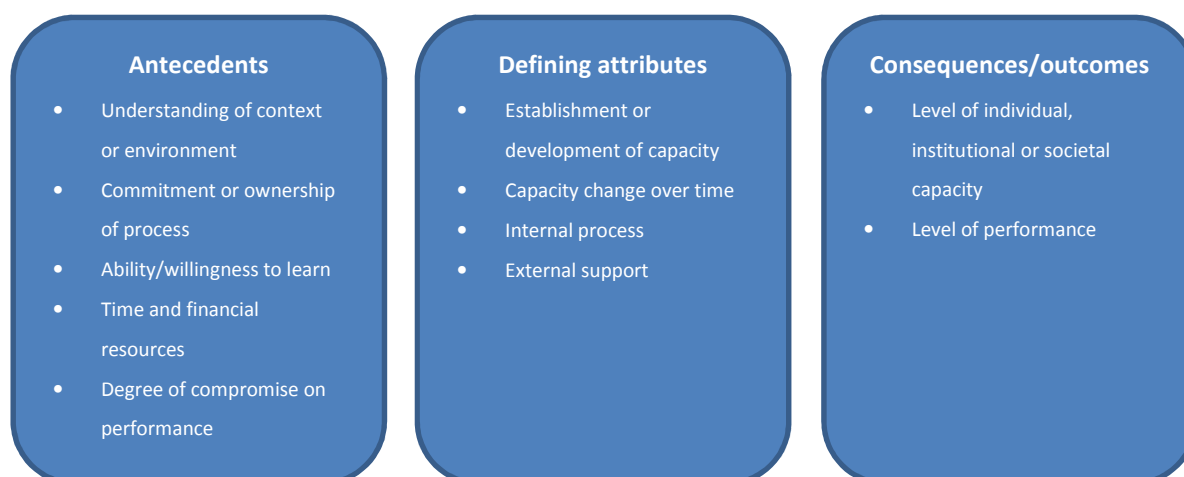


FIGURE 9: COMPONENTS OF THE “DEGREE OF CAPACITY DEVELOPMENT” CONCEPT

4.3.3 *LEVEL OF PARTICIPATORY GOVERNANCE*

The United Nations Economic and Social Council (2007, p. 4) define participatory governance as an institutional strategy of development governance with the intention to achieve citizen engagement. Developmental governance here refers to the processes and institutions contributing to public decision-making related to planning, budgeting, monitoring and accounting for socio-economic development policies and programmes. Participatory governance is premised on the basic human right to participate in a society’s decision-making processes. This can occur at various levels such as national, subnational, regional and international levels of government and include partnerships with non-governmental organisations, civil society organisations, business communities and trade unions, among others. Government is expected to identify stakeholders, establish participatory systems and provide a range of participatory mechanisms (United Nations Economic and Social Council, 2007, p. 11). The purpose of this type of engagements is to gather different perspectives while developing, implementing and monitoring public policies and programmes (United Nations Economic and Social Council, 2007, p. 4).

Wampler and McNulty (2011, p. 6) describes participatory governance as “state-sanctioned institutional processes that allow citizens to exercise voice and vote, which then results in the implementation of public policies that produce some sort of changes in citizens’ lives”. This involves citizen engagement in policy formation, selection, and oversight with public officials at public venues at a variety of times throughout the year. They argue that this has become more prevalent, as democratic governments decentralise and attempt to address embedded elite rule and clientelism (Wampler & McNulty, 2011, p. 7).

Participatory governance requires processes and formal or informal forums for citizens to raise their concerns and to influence decisions. This requires them to be confident and capable of communicating with bureaucrats, elected representatives and other public agents. Therefore, the presence of “countervailing

power”, mechanisms to reduce or neutralise existing power hierarchies in a society, is necessary to enable this. This can be achieved by entrenching “civil-political rights such as freedom of speech and information, and equal access to justice, among others” (United Nations Economic and Social Council, 2007, p. 10) and providing some economic security for the poor.

Wampler and McNulty (2011, p. 9) also refer to the costs participants incur, such as for transport, time commitment and absence from work that is often not factored in by government. Furthermore, they refer to the following variables that drive participatory governance institutions: “1) the political interests of government officials; 2) the configuration of civil society; 3) institutional rules; 4) resources available; 5) the local party system; and, 6) interactions between executive and legislative branches”. The political interests of government officials affect their commitment to the participatory governance process and the legitimacy and success thereof. The configuration of civil society relates to how these organisations operate and what they focus on. Their effectiveness appears to be correlated to whether they are able to contest the formulation of policy, demand civil rights and their affiliation with leftist politics. In terms of institutional rules or formal, legal codification of law, the rules or law may set the parameters for participatory governance; however, there may be a distance between these and the practice thereof. In addition, the type of institutional rules tend to incentivise certain types of behaviour, which can influence the outcomes. Therefore, the rules should be adapted to address the policy problem and to incentivise the desired behaviour. They also briefly discuss the role of the state in terms of its effectiveness and capacity; where less capacity and effectiveness inevitably results in less effective participatory governance outcomes. In this regard, available resources impact on the ability of the state to increase its capacity and to meet competing demands of society. (Wampler & McNulty, 2011, p. 11-12, 14-15)

Transparency or the free flow of information and communication between government and the public is essential for participatory governance or the public’s involvement in the governing of the state to be successful. It implies that there is public participation in decision-making, an involvement of citizens, access to information, accountability, answerability and political responsibility. (Du Toit et al., 1998, p. 146) The United Nations Economic and Social Council (2007, p. 10) concurs with this notion and states that transparent decision-making processes allows participants certainty about the consideration of their views. However, measures of accountability are critical to provide this certainty.

The United Nations Economic and Social Council (2007, p. 7-8) argues that the following issues should be taken into consideration for participation to be effective. Firstly, the characteristics of the affected community and environment should be factored into the design of the process. This should include social differentiation, political domination and ethnic fragmentation. This is essential, as depending on the inequalities within the community, this could lead to community failure where efficient solutions are hindered due to elite capture or entrenched power hierarchies. Secondly, there is a need to factor in competing preferences and interests, particularly of ordinary citizens and the marginalised into policy formulation. This is important to promote ownership and credibility of the outcomes.

Du Toit et al. (1998, p. 124-125) refer to the potential negative use of participatory democracy to silence dissatisfied groups of society or use groups to lobby for government's purposes rather than to receive impetus in its decision-making processes. Furthermore, certain groups may misuse these opportunities for their own gains.

Participatory governance is purported to assist in deepening democracy, strengthening social capital, facilitating efficiency and sustained growth, as well as promoting pro-poor initiatives, equity and social justice (United Nations Economic and Social Council, 2007, p. 4). While effective participation should lead to balancing efficiency and economic growth objectives with equity and social justice; and allow ordinary citizens, particularly the poor and marginalised, to have a greater influence on the outcomes (United Nations Economic and Social Council, 2007, p. 5, 10).

Wampler and McNulty (2011, p. 27-32) discuss six areas where participatory governance may yield an impact. These are in:

- Empowering individual citizen's capabilities to be more knowledgeable about how government functions and about alternative ways to approach and think about a problem.
- Potentially enhancing civil society organisations' capacity to act as links between the state and society.
- State reform, where this occurs as a result of participatory governance, it can positively impact on state legitimacy and authority, as well as increase citizens' and government officials' trust of one another.
- Enhancing democracy by providing a platform for new interests to be heard, providing an opportunity to represent citizens' views and allowing new mechanisms of deliberation.
- Citizens influencing public policy outcomes.
- The possible contribution to social well-being.

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of the "level of participatory governance" is depicted in Figure 10:

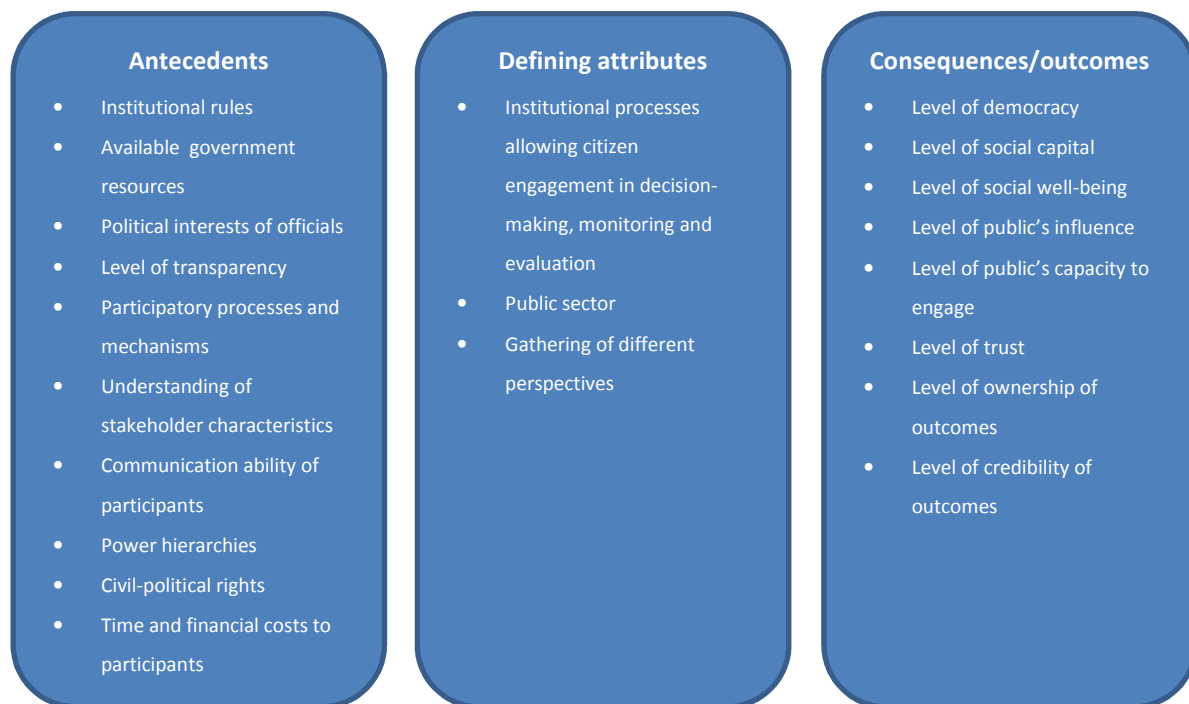


FIGURE 10: COMPONENTS OF THE “LEVEL OF PARTICIPATORY GOVERNANCE” CONCEPT

4.4 TIER 2: KEY CONCEPTS

Literature was reviewed to develop the three key underlying concepts derived from the research problem, question and goals for this study, which fall within the parent discipline. Theories relevant to each of these are explored and concept analyses of these have been developed.

4.4.1 *THE EFFECTIVENESS OF PARLIAMENTARY OVERSIGHT*

Srem-Sai (2014, p. 1-2) discusses the concept of parliamentary oversight. He states that this involves the monitoring, evaluating or scrutinising of the executive arm of government by the legislative arm of government. Thus, the legislature would be publicly revealing the actions of the executive so that they justify any suspicious actions and censuring the executive for condemnable actions, which could include the executive being removed from office. The intention of this is to ensure that the laws made by the legislature are implemented by the executive in the envisioned manner. Zvoma (2010, p. 2) largely concurs with this definition but uses executive operations and activities.

Higgins Gilley (2002) uses a definition of legislative oversight that focuses on the impact of the behaviour of parliamentarians and their support staff on the executive's behaviour. She identifies four characteristics of effective oversight from literature. These are that effective oversight is detailed, comprehensive, contains an “in person” element and results in legislative action. The “in-person” element refers to committees or MPs working directly with government agencies to monitor and evaluate their operations or investigating a matter; thus leading to a deeper understanding of the issues. She further differentiates between reactionary and systematic oversight. Where the former refers to oversight that reacts to a problem or public complaints and the latter is oversight that is pursued regularly, such as budgetary oversight.

Webb and Roberts (2014) developed a framework for designing and determining the effectiveness of parliamentary oversight within the context of human rights. However, their reasoning could be applied to other areas of oversight. Their starting point was that effectiveness of the oversight mechanism was determined by whether the set goal was met. In light of this, they identified three organisational effectiveness models that could be applied in this context. These were the goal-based model, the multiple-constituencies model and the legitimacy model. However, they adopted a goal-based approach but fit the other two aspects into their framework. The approach requires clear overarching and operational goals to be identified; the elements impacting on the attainment of the goal to be identified so that the legislature's legitimacy is safeguarded and the constituents' needs are satisfied; and criteria to evaluate these elements to be determined. In terms of legitimacy, they argue that parliaments are naturally perceived to be legitimate, as its membership is elected by the people. However, this can be negatively affected due to real or perceived poor performance and perceived politicisation. This can be mitigated by setting strong clear goals for oversight that address constituencies' needs and clarifying the purpose and powers of parliament. They identify the following criteria to determine the effectiveness of the oversight mechanism, which must be assessed in relation to the goals set, the needs of the constituency and the legitimacy of the mechanism (Webb & Roberts, 2014, p. 8-9):

- *Quality*: Expertise among MPs and their staff on the subject, including the availability of high-quality training; and access to relevant and reliable materials.
- *Resources*: Including secretariat/advisor support, and availability of information.
- *Political Support*: Relationship with the executive and the existence of government commitment to oversight.
- *Partnerships*: Cooperation, coordination and consultation with relevant institutions and civil society etc.
- *Mandate/Powers*: Status/stability of mandate; ability to independently select issues, publish recommendations, compel witnesses and government members to appear, review draft legislation, and propose amendments.
- *Approach*: Willingness to tackle sensitive issues.
- *Method of Operation*: Transparency, including reasons given for incompatibility/compatibility with international obligations.
- *Politics*: Non-partisanship in the composition of oversight mechanisms; and independence from the Executive.
- *National Context*: National commitment to the issue being overseen; political system and environment (dialogue v division); quality of the overall democratic framework, including whether parliament is dominated by 'reactionary forces'; and composition and commitment of parliamentarians.

Higgins Gilley (2002) raises some factors that determine the effectiveness of oversight. These include time constraints that negatively influence how comprehensive the oversight is; the ability to access information and witnesses, such as having subpoena powers, government transparency, and legislation promoting and facilitating access to information and transparency; and the expertise of support staff to interrogate information.

While Srem-Sai (2014, p. 2) lists the factors that influence the effectiveness of oversight as the “culture, attitude and term/tenure of office of both the executive and the legislature”, as well as the level of democracy, the per capita income levels of the population, the availability of oversight tools such as debates, hearings and committees of inquiry, and the use thereof. Griffiths (2006, p. 48-49) also notes the factors that influences the effectiveness of parliamentary oversight, as the “nature of the electoral system, patterns of party discipline, executive-legislative relations, and the capacity of... committees to effectively monitor policy”. How MPs attain their seats is dependent on the nature of the electoral system, which in turn impacts on the influence of party discipline. This, in combination with the relative technical expertise of MPs and support staff versus the executive, can limit the effectiveness of oversight.

Srem-Sai (2014, p. 4-5) raises a number of challenges facing effective oversight. These include financial autonomy, situations where MPs pursue career advancement as ministers thus hindering their scrutiny of the executive, the quality of MPs’ capacities, and the threat of corruption and conflict of interests. He contends that the competence of an MP can be addressed through long service and training.

Zvoma (2010, p. 3) highlights some of the purposes of oversight. These include Improving the efficiency, economy, and effectiveness of governmental operations; minimising poor administration, waste, abuse, arbitrary and capricious behaviour, or illegal and unconstitutional conduct; protecting civil liberties and constitutional rights; informing the general public; ensuring that executive policies reflect public interest; and ensuring greater accountability and transparency. Higgins Gilley (2002) raises the potential for certain types of effective oversight to increase public participation.

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of the “effectiveness of parliamentary oversight” is depicted in Figure 11:

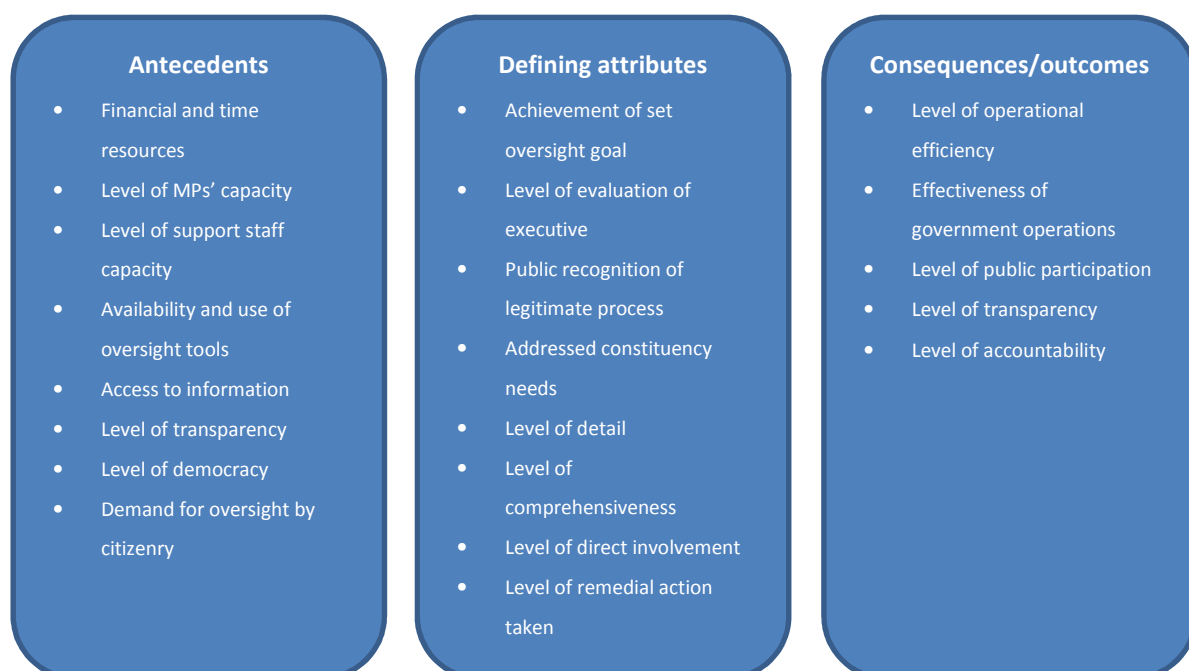


FIGURE 11: COMPONENTS OF THE “EFFECTIVENESS OF PARLIAMENTARY OVERSIGHT” CONCEPT

4.4.2 *THE LEVEL OF INSTITUTIONAL CAPACITY*

According to Simister and Smith (2010, p. 3), capacity refers to the ability to manage affairs successfully, whether as an individual, organisation or society. They further describe organisational capacity as the capability of an organisation to achieve its objectives or goals effectively. However, this concept is dynamic and dependent on internal and external stimuli.

Bhagavan and Virgin (2004, p. 3, 7) define institutional capacity in terms of the competence, resources and structures an institution has to perform its functions. Competence is related to individuals within an institution's knowledge and skills, which can be across a broad spectrum of functions such as management, administration and support, or technical/subject knowledge. This can also include institutional memory. Resources include human, technical and financial resources. In terms of human resources, the turnover rate of employees is important to maintain and build competence. Structures refer to the horizontal and vertical relations among and between employees and employers, rules, values and behaviours within an institution or the institutional framework.

A further definition is provided by Shenga (2007, p. 2) in relation to legislatures. These are the instruments parliaments require to have influence and to perform their oversight and law-making responsibilities, as well as their representation duty. Their capacity is determined by the "relative powers and levels of autonomy of the legislature" and the available "infrastructural, financial and human resources", where human resources here refer to both MPs and staff (Shenga, 2007, p. 2). However, the former area influences the latter. The relative powers and levels of autonomy of the legislature hinge on the nature of the parliamentary system and the powers of the president. This includes issues such as the president's ability to dissolve parliament, parliament's powers to remove the executive or impeach the president, parliament's power to initiate or amend legislation and to amend the budget (Shenga, 2007, p. 2-8). In terms of human resources, he alludes to the importance of educational background but conjectures that this is only relevant if staff are employed in positions where these skills can be used. This aspect is also relevant for determining MPs' capacity. (Shenga, 2007: 11) Other resources, he considers are the parliamentary structure, the ratio of MPs to the population within the context of population density and access to constituencies, and office space (Shenga, 2007, p. 8-11).

On the other hand, Agyeman-Duah (2007, p. 2) limits the capacity of the legislature to the capital, physical and human resources available to it. Where capital resources relate to finances for physical, organisational and administrative infrastructure and remuneration. Physical resources refer to infrastructure such as office space and information and communication technology. However, he limits human resources to professional and skilled staff. These should be sufficient to meet the legislature's needs.

The level of institutional development is reliant on the degree of capacity development. In terms of human resources, this would be dependent on training and educational development, as well as the implementation of technical assistance programmes (Bhagavan & Virgin, 2004, p. 7-8).

Shenga (2007, p. 1-2) purports that the more institutional capacity the legislature has, especially in relation to the Executive, coupled with greater attention on the needs and interests of the citizenry, the greater the probability that the quality of democracy will be enhanced. This in turn should increase citizen trust in government. These outcomes are expected because it is assumed that greater institutional capacity leads to higher performance in legislative areas such as oversight. Likewise, Agyeman-Duah (2007, p. 2) links the availability of resources to the effectiveness of legislative performance of its responsibilities. Lack of capacity affects the legislature's autonomy and its ability to hold the Executive to account; thus hampering its role in promoting democracy and good governance (Agyeman-Duah, 2007, p. 7).

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of the "level of institutional capacity" is depicted in Figure 12:

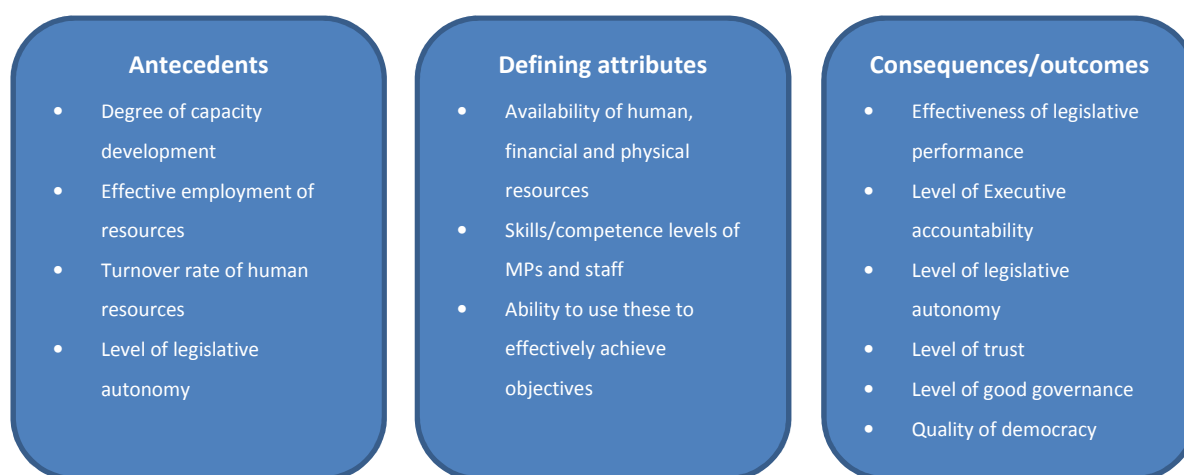


FIGURE 12: COMPONENTS OF THE "LEVEL OF INSTITUTIONAL CAPACITY" CONCEPT

4.4.3 THE DEGREE OF HORIZONTAL ACCOUNTABILITY

According to Stapenhurst and O'Brien (n.d., p. 1), accountability involves subjecting government officials' decisions and actions to oversight to ensure that government's objectives are met and that these respond to the needs of the public. There must be answerability to another body and enforcement to sanction any wrongdoing or correct actions that do not lead to government's objectives being met. The Department for International Development (2008, p. 5-6) agrees with this definition.

Horizontal accountability is performed by institutions of accountability, including the judiciary and the legislature, in a formal manner, which are independent from the institution being held accountable (Department for International Development, 2008, p. 8; Stapenhurst & O'Brien, n.d., p. 1). Therefore, it is the "capacity of state institutions to check abuses by other public agencies and branches of government, or the requirement for agencies to report sideways" (Stapenhurst & O'Brien, n.d., p. 1). The legislature and judiciary exist as political and legal checks and balances provided for constitutionally respectively. Other independent institutions of accountability exist that usually report to the legislature, such as supreme audit institutions, anti-corruption commissions, ombuds offices and human rights institutes, which operate separately from the

executive and can support the oversight role of the legislature. (Department for International Development, 2008, p. 8; Stapenhurst & O'Brien, n.d., p. 2) The Department for International Development (2008, p. 8) relates horizontal accountability to these bodies representing the public who "lack the time, expertise, and collective-action resources to monitor the detailed work of their public representatives".

Similarly, Kenney (2000, p. 2) relates horizontal accountability to state entities overseeing, sanctioning and impeaching government departments or officials for unlawful and unconstitutional actions or omissions. He argues that the concept of answerability as a critical element of accountability implies that one is subjecting oneself to the possibility of sanction under specific circumstances. Therefore, enforcement cannot be separated from the concept of answerability for the degree of horizontal accountability to be significant. This aspect of accountability ensures that there is rule of law and that accountability is strong. Within the horizontal accountability context can include removal from office by the legislature or criminal penalties by the judiciary. (Kenney, 2000, p. 5-6)

Stapenhurst and O'Brien (n.d., p. 2-3) identify that civil society can demand accountability through formal and informal civil engagement or public participation with the Executive and/or Parliament. Citizens can also require Parliament to hold the executive to account through the electoral system. In addition, the degree of horizontal accountability is dependent on the effectiveness of the institutions of horizontal accountability, which can be enhanced through public participation (Stapenhurst & O'Brien, n.d., p. 4).

For institutions of horizontal accountability to be effective, Kenney (2000, p. 6) argues that they require working relationships with the legislature and the judiciary to effect sanctions. In addition, he states that although institutions of horizontal accountability are claimed to be essential in a democracy, these very institutions can undermine accountability by serving their own interests or the interests of a powerful minority. Without the perception that the public interest is being served, the legitimacy of these institutions are at risk, as well as democracy. (Kenney, 2000, p. 11) Furthermore, he raises the need for separation of powers and built-in incentives to prevent collusion among the three arms of government so that horizontal accountability is guaranteed. In this regard, majority parties could sabotage the accountability mechanisms built into the design of the separation of powers scheme by a minority of party leaders controlling potentially all three arms of government. However, there is a risk of democratic instability when opposition parties dominate the legislature. (Kenney, 2000, p. 13-16)

The Department for International Development (2008, p. 11) raises possible bias and capture of horizontal accountability institutions. This may include disincentives within the electoral system, incentives from the executive for MPs to not effectively oversee them, or restricting access actively or through prejudicial practices. However, effective parliamentary oversight can advance horizontal accountability (Department for International Development, 2008, p. 13).

Greater accountability, including horizontal accountability, yields more effective service delivery that is value for money. This increases confidence in government, which is more responsive to the needs of the public. Thus, overall governance improves. (Stapenhurst & O'Brien, n.d., p. 1)

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of the “degree of horizontal accountability” is depicted in Figure 13:

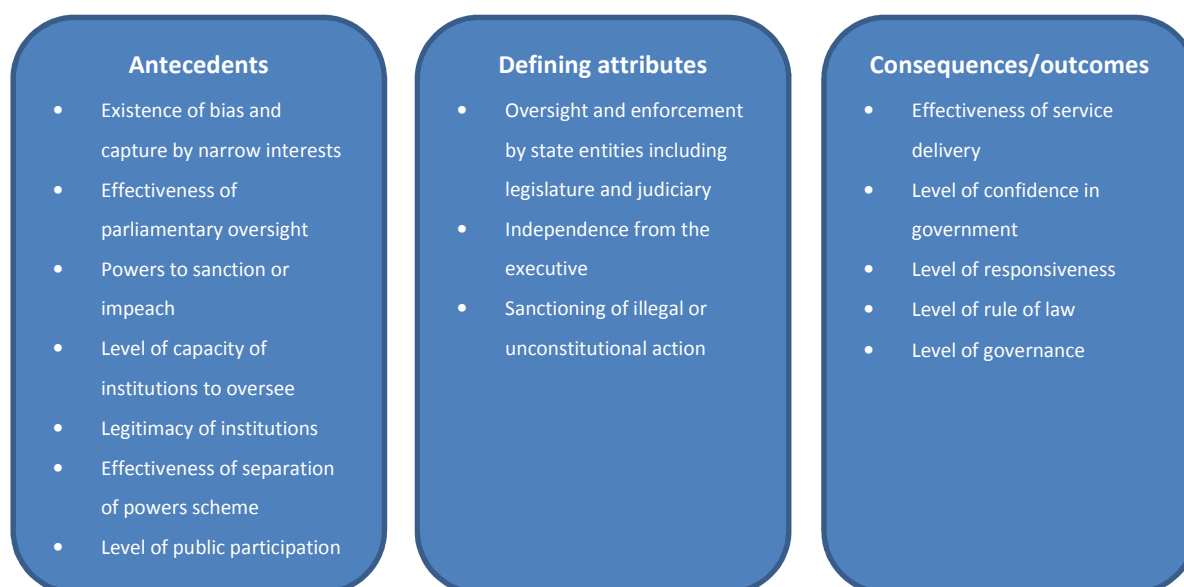


FIGURE 13: COMPONENTS OF THE “DEGREE OF HORIZONTAL ACCOUNTABILITY” CONCEPT

4.5 TIER 3: THEORETICAL CATEGORIES

Literature was consulted to develop theoretical categories in relations to the five concepts developed in Chapter 3. The theoretical categories consist of comprehensive concept analyses for each core variable and indicate how each core variable impacts on the concern variable.

4.5.1 *EFFECTIVENESS OF PARLIAMENTARY OVERSIGHT OVER TRADE NEGOTIATIONS*

Duresso (2013, p. 7) defines oversight as “an interaction between the parliament and the executive and other administrative agencies” to encourage “compliance with the constitutional obligation on the executive and other administration to ensure delivery on agreed-to objectives for the achievement of government priorities”. Specifically, he refers to parliamentary oversight as “an act of watching over the performances and other decisions of the executive organ by the parliament ... using various mechanisms of oversight”. Therefore, there is a need for these performances and decisions to be scrutinised and justification for these actions or decisions to be sought; where necessary, objectionable decisions should be admonished. A distinction must be made in terms of the system under which a legislative body exists. Two systems are referred to, namely a presidential system or a parliamentary system. Under a presidential system, such as in the United States of America, the legislative body consists of individuals that are directly elected by their constituencies and are considered more independent from their parties. While under a parliamentary system, legislators elect the executive from among them and have the power to sanction their actions or withdraw support. (Friedberg & Hazan, 2012)

According to Duresso (2013, p. 13), parliamentary oversight can be conducted in an overt or covert manner. This can be done using a number of oversight mechanisms or tools including oversight or inquiry committees, public hearings, written or oral questions, interpellations, motions for debate or censure, missions and reports (Friedberg & Hazan, 2012, p. 11-14). Effective oversight should entail the deep investigation of acts and decisions of executive organs and not merely physical or superficial observation of these (Duresso, 2013, p. 63).

Furthermore, Friedberg and Hazan (2012, p. 5) distinguishes between “strong” and “weak” parliamentary oversight. They purport that “strong” parliamentary oversight is political in that a majority of legislators can veto the executive or government. This is a key characteristic of a parliamentary system, as the government is formed from within the legislative body. While “weak” parliamentary oversight focuses on administrative mechanisms, namely using the oversight tools mentioned earlier. However, they emphasise that effective “weak” parliamentary oversight can result in a legislature being perceived to be “strong”, as they thoroughly and consistently investigate and interrogate the executive and government departments leading to these being held accountable.

One of the main purposes of parliamentary oversight is to evaluate whether government policy is being implemented in accordance with its intent and is effective in achieving this intent; as well as to assess its impact in accordance with legislative standards. This ensures that government policy is having the desired effect, responds to the needs of the citizenry, and that no arbitrary behaviour, nor illegal or unconstitutional conduct is undertaken by the government and its agencies. (Duresso, 2013, p. 14-15, 22) Esau (2008, p. 96) confirms that “legislatures are equipped with tools to ensure that policies, programmes and laws fundamentally reflect the interests of society”. She continues that legislatures have been given specific functions and powers to exercise oversight over the executive and its government departments.

One of the key outcomes of effective oversight is robust recommendations to the executive. Friedberg and Hazan (2012, p. 21) specify that recommendations must be well-worded, clearly set out the required corrective action, have a legal status for the executive to act on them, and have specific timeframes. Furthermore, recommendations should be monitored to ensure that these have been implemented.

Duresso (2013, p. 12, 15) and Pelizzo and Stapenhurst (2014, p. 255) agree that parliamentary oversight, particularly when it is effective, ensures that governments operate in a transparent and accountable manner by providing a system of checks and balances and exposing these operations to public scrutiny. Duresso (2013, p. 14) further indicates that effective oversight facilitates linking government policy to the will of the citizenry, so that power is not abused by the executive. Effective oversight also has other benefits, such as reducing the incidence of corruption and facilitating a better political system (Pelizzo & Stapenhurst, 2014, p. 255). Esau (2008; p. 96) posits that claims of effective oversight should be accompanied by a reduction in the incidence of non-compliance by government departments.

Esau (2008, p. 98) expounds that, in South Africa, oversight is a constitutional mandate outlined in Section 55 of the *Constitution* given to the legislature to hold all national executive organs of state to account and to

oversee the exercise of executive authority. Furthermore, she explains that the *Constitution* provides for the exercise of such oversight through parliamentary committees, among others, and the participation of the opposition, including minority parties.

Duresso (2013, p. 23-25, 53, 62, 63, 64) identifies a number of factors that contribute to the effectiveness of parliamentary oversight. These include:

- Legislative capacity to effectively oversee the executive or influence policy. This includes the legislators having adequate knowledge and skills to do so or the opportunity to receive appropriate training, and their regular availability.
- Sufficient institutional capacity, human and other resources. This includes quality technical support from parliamentary staff.
- Good organizational structure and infrastructure, such as information technology systems, and office space.
- Party political freedom to rigorously debate and criticise executive action and policy without fear of party discipline or losing one's seat in the legislature, namely the degree of partisanship.
- The ability of minority parties to influence policy, particularly when a majority party exists.
- The degree of independence or separation of power between the legislative and executive arms of government.

Friedberg and Hazan (2012, p. 9) expound on the degree of independence or separation of power between the legislative and executive arms of government, which tends to determine how effective oversight is. They explain that weakness in the legislature is dependent on the extent of loyalty the executive has among the legislators. Where there is captive loyalty of the majority, oversight will tend to be weak. While a lesser degree of loyalty tends to result in more effective oversight and greater transparency from the executive.

Esau (2008, p. 102) also raises the need for explicit guidelines on the powers, functions and responsibilities of committees, the chairperson and its members. She explains that in the absence of these, the powers of the chairperson are ambiguous and thus open to too much interpretation and the influence of personalities.

Although Pelizzo and Stapenhurst (2014, p. 255-256) agree that oversight tools and legislative and organizational capacity are important, they argue that this is dependent on legislators' political will for oversight over the executive to be effective. They claim that when there is no or limited political will, legislators could choose not to effectively use the oversight tools and capacity available in order to protect the executive. Therefore, they assert that to increase political will, legislators require an incentive such as a demand from their electorate for oversight and accountability. This would entail both the electorate and legislators understanding the purpose of parliamentary oversight, providing international support for legislators and institutional reforms.

Friedberg and Hazan (2012, p. 5-7) concur with this notion but refer to this in relation to the motivations and incentives for oversight or legislators' desires and preferences. They argue that legislators will focus on

activities that will gain them the most political capital to be re-elected. Unfortunately, oversight over the executive is not considered one of those tasks by most legislators. It is alleged that this may even damage their political careers, if they embarrassed themselves or their political parties through this exercise. Unlike Pelizzo and Stapenhurst (2014), they are of the view that this can be remedied by developing incentives, such as the creation or further development of effective legislative oversight tools, and by reducing the role political parties play in the political future of legislators and/or the threat of party discipline for effectively performing the oversight function.

Esau (2008, p. 96) raises the following factors that affect how relevant parliamentary oversight is perceived or the perception around a legislature's ability to perform its oversight function:

- "Power relations,
- Subjective socio-economic conditions, and
- Formal and informal institutions".

The Economic Commission for Africa (ECA) (2011, p. 52) and Esau (2008, p. 96) concur that there has been a tendency for majority-led legislatures to undermine the role of the opposition and; hence, the additional oversight capacity that they can offer. Therefore, the extent to which the opposition is allowed to play an active role in the oversight function can be an indicator of the effectiveness of oversight, as this shows the willingness of the majority to have its executive scrutinized.

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of the "effectiveness of parliamentary oversight over trade negotiations" is depicted in Figure 14:

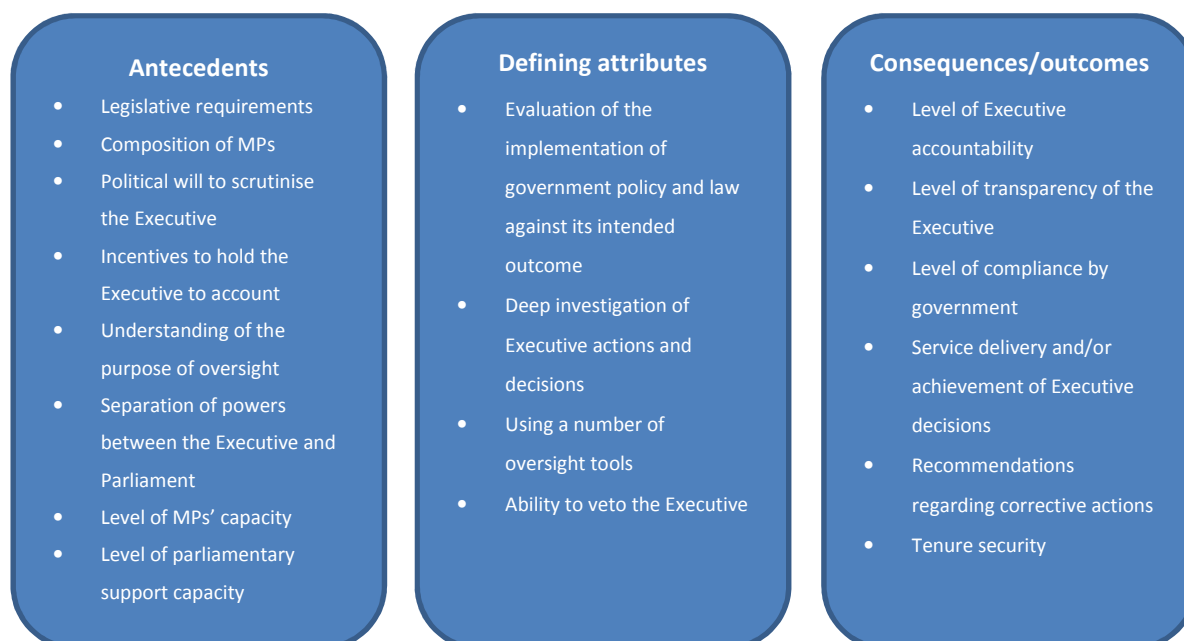


FIGURE 14: COMPONENTS OF THE "EFFECTIVENESS OF PARLIAMENTARY OVERSIGHT OVER TRADE NEGOTIATIONS" CONCEPT BASED ON THE LITERATURE REVIEW

4.5.2 LEVEL OF MEMBERS OF PARLIAMENT'S CAPACITY TO OVERSEE TRADE NEGOTIATIONS

Nguyen (2012, p. 645) defines capacity as “the ability of the person or institution to effectively carry out functions as required and authorised by law”. On the other hand, Barkan (2005, p. 14) refers to capacity at the committee level in terms of the “critical mass” of a committee’s membership that is capable of fully participating on the committee’s work’. They broadly agree on the characteristics of the ability of individual members. Nguyen (2012, p. 641) infers that the availability of MPs and whether they are wholly dedicated as legislators, as well as their “backgrounds in education, profession, age or gender”, play a role in this ability. While Barkan (2005, p. 14) adds that capable MPs have at least a layman’s understanding of issues before the committee. Furthermore, Nguyen (2012, p. 642) considers that capacity can be enhanced by providing “appropriate human and financial resources and procedures to better solicit the interests and concerns of the public”, and expert opinion on specific subject matters. Barkan (2005, p. 15) concurs with this notion. However, O’Brien, Stapenhurst, and Prater (2012, p. 594) focus on the technical skills of MPs to perform their oversight function.

Personal capacity can be developed through training programmes, and knowledge sharing opportunities. These can be internationally hosted or locally developed. However, it is important for training to consider local conditions and context. (Barkan, 2005, p. 15; Nguyen, 2012, p. 645) O’Brien et al. (2012, p. 595-596) purport that training on its own is inadequate and broader capacity building is necessary to increase members’ capacity. This process would be over a medium-to-long term period and should consist of a more complex and multi-faceted process than that of training. They are of the view that this should include “face-to-face training, technical assistance, just-in-time advice, study tours, practitioner exchanges and peer-learning, action-planning, e-Learning, practical exercises/role play”, among others. This variety of methods should assist with adult learning by increasing participant engagement and cementing good practice.

Barkan (2005, p. 15) elaborates on other characteristics of committee capacity. These included the:

- Committee chair’s degree of motivation and their knowledgeability on the subject and the role of their committee.
- Number of committee members who share the chair’s interest in the committee’s work.
- Availability of office and meeting spaces.
- Level of respect other legislators, political leadership and affected external organisations have of the committee.
- Demand for the committee’s work.

In his study, Duresso (2013, p. 51-53) found that one of the main reasons for parliamentary committees being ineffective in their oversight role was a lack of technical capacity to detect deeper issues. He refers to members of these committees not having the requisite knowledge (or awareness of issues) and skill to conduct deeper oversight. However, he argues that this lack of skill may also inadvertently help them to secure their

positions within the legislature. He cites that efforts to capacitate committee members included training them, providing advisors to support the committees and access to information services, such as a library and internet services. However, the skill levels of the advisors were important in terms of increasing the effectiveness of oversight. Furthermore, he highlights the need to use professionals with appropriate technical capacity to assist in monitoring and evaluation of executive projects to enhance MPs' capacity. He also alludes to the impact of the separation of power between the executive and the legislature on members' capacity to oversee the executive.

Esau (2008, p. 96) raises the inter- and intra-party loyalty and discipline in the legislature as a constraint on MPs' ability and willingness to use their existing capacity to exercise their oversight function effectively. Furthermore, the degree to which the rules of the legislature provide a chairperson with the leeway to determine the extent of the oversight function within a committee or the extent to which MPs are allowed to scrutinise the executive in a haphazard manner.

This sentiment in terms of the impact of party political influence, discipline and loyalty is shared by other authors, such as Friedberg and Hazan (2012) and Pelizzo and Stapenhurst (2014). In spite of members having developed extensive expertise, undergoing effective training and having access to good resources to perform oversight, the degree of this factor could substantially impact on the use of that personal capacity. However, these authors do not dispute the need for members to develop personal expertise in the areas that they oversee in order to perform this function effectively. Nguyen (2012, p. 643) summarises this as legislators' motivation to carry out their duties is determined by the source of power during the election and selection process. Therefore, if this source of power is constituencies, then the needs of citizens will more likely be served, but if this is from a party, then the party's ambitions will most likely be served.

Another aspect influencing members' capacity is the turnover of MPs. The ECA (2011, p. 51-52) claim that new MPs enter the legislature with no policy expertise and thus become dependent on government officials, who they oversee, to support them with information and insight. They advocate that, in collaboration with development partners, the personal capacity or skills of MPs and staff should be developed to improve the overall capacity of the legislature (ECA, 2011, p. 57-58). Nguyen (2012, p. 642) adds that there is a need for previous legislators to play a role in transferring their knowledge and skills to incoming legislators to mitigate a loss in capacity during a change in elected representatives.

Friedberg and Hazan (2012, p. 22) also refer to the need to retain the membership of committees, as MPs develop expertise in specific areas through continued exposure to it. Over time, this will strengthen the ability of committees to more effectively oversee the executive. O'Brien et al. (2012, p. 596) concur but focus on the loss of capacity achievements made through capacity building efforts. Furthermore, they argue that limiting the number of committees a legislator belongs to allows legislators to increasingly gain expertise and professionalism in these areas (Friedberg & Hazan, 2012, p. 23). They also advocate that new MPs should be trained in terms of the importance of legislative oversight and how to use the oversight tools by either their political parties, academic institutions and research centres or by international agencies and non-

governmental organisations where the former are unable to facilitate this training (Friedberg & Hazan, 2012, p. 31).

Enhanced members' capacity is expected to contribute to "open and collaborative development" by being in a position to hold the executive to account; thus, contributing towards good governance, namely accountability, transparency, public participation and the rule of law (O'Brien et al., 2012, p. 593).

To a lesser degree, some MPs may increase their capacity for their personal development and out of a desire to "improve government performance and strengthen the legislature" (Friedberg & Hazan, 2012, p. 7).

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of the "level of Members of Parliament's capacity to oversee trade negotiations" is depicted in Figure 15:



FIGURE 15: COMPONENTS OF THE "LEVEL OF MEMBERS OF PARLIAMENT'S CAPACITY TO OVERSEE TRADE NEGOTIATIONS" CONCEPT BASED ON THE LITERATURE REVIEW

4.5.3 LEVEL OF PARLIAMENTARY SUPPORT CAPACITY FOR MEMBERS OF PARLIAMENT

Parliamentary support capacity is broadly defined as the human, institutional and financial resources available to MPs or committees to perform their core functions including oversight. Nijzink, Mozaffar, and Azevedo (2006, p. 314-315) refer to the concept of institutional capacity instead of parliamentary support capacity. In this regard, they define this as "the instruments that give parliaments the potential to exert influence and perform their main responsibilities of lawmaking, oversight and representation". Institutional capacity has two dimensions, namely "the relative powers and level of autonomy of the legislature"; and "the infrastructural,

financial and human resources available to the institution”. For the purpose of this concept, I focus on the latter dimension within this concept.

Barkan, Ademolekun, and Zhou (2004, p. 219) posit that a number of external and internal factors influence whether MPs would expand their roles and whether the legislature would have authority, as an organ of state. One of these factors is the institutional resources available to them. These institutional resources included adequate pay and fringe benefits that ensures commitment to the parliamentary mandate and the independence of the legislature, as well as enables other constituency work; and the level of institutional support received in terms of professional staff and physical infrastructure. The availability of these resources was dependent on the budget available, who was responsible for allocating this, and how staff was appointed. Often, where the legislature was dependent on the Executive for its funding or its staff complement, it was at the mercy of the Executive and unable to behave in an independent fashion. Thus, the authority of the legislature, and MPs’ oversight capacity and integrity could be diminished. (Barkan et al., 2004, p. 229-230) In terms of physical infrastructure, this may include offices for parliamentarians and staff, meeting rooms, information resources and access to the Internet (Barkan et al., 2004, p. 233-234).

According to Barkan et al. (2004, p. 253-4), the level of active cooperation by key leaders within the legislature determines the level of institutional capacity. Therefore, a critical mass of MPs who wish to reform the institution is necessary to alter the incentive structures for MPs and to allocate resources to build parliamentary support capacity. As only when a substantial number of MPs are willing to risk a political fallout with their party(ies) can such reform occur.

Nijzink et al. (2006, p. 316) argue that the larger the size of the legislature or number of members, the more support staff, office space, and financial resources are required.

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of the “level of parliamentary support capacity for Members of Parliament” is depicted in Figure 16:



FIGURE 16: COMPONENTS OF THE “LEVEL OF PARLIAMENTARY SUPPORT CAPACITY FOR MEMBERS OF PARLIAMENT” CONCEPT BASED ON THE LITERATURE REVIEW

4.5.4 THE DEGREE OF THE EXECUTIVE'S ACCOUNTABILITY TO PARLIAMENT

Duresso (2013, p. 8) defines accountability as “a social relationship where an actor ... feels an obligation to explain and justify his or her conduct to some significant other”. In his study, the executive organ of government has a duty to explain and justify the actions it has taken in discharging its power and duty to the legislature or parliament. This relationship underpins modern democratic governance and leads to government's stated objectives being met and service delivery to citizens (Duresso, 2013, p. 15-16). The Parliament of the Republic of South Africa (2009a) further relates accountability to the mechanism to allow the public to assess the performance of government, which in turn affects public confidence in government. While Duresso (2013, p. 16) raises that proper accountability can result in injustices or unmet obligations being identified and addressed where public platforms are provided. It can also foster learning to improve the effectiveness of the government (Duresso, 2013, p. 16; Parliament of the Republic of South Africa, 2009a).

Duresso (2013, p. 17) states that there is no definite way to measure accountability but rather that this is dependent on the existing circumstances and other factors in which the executive and parliament operates. This includes the capacity of parliament to impose sanctions or require remedial action to be taken.

Corder, Jagwanth, and Soltau (1999) provides a narrow, technical sense of accountability, as well as a wider sense. In the first instance, accountability is the duty of the ‘accounting officer’ or head of a department to report or give an account to the relevant Minister, the Auditor-General and the Standing Committee on Public Accounts regarding the use of the department's financial resources and other matters. In the second instance, it refers to the requirement for a responsible person to explain or justify their decisions or actions in terms of set criteria, to correct any faults or errors, and to prevent the recurrence of these types of mistakes in future. That responsible person ultimately becomes the Minister in charge of the relevant portfolio, if the Westminster model of responsible government is adopted. This model requires that the Ministers must take responsibility for all the workings of government departments for Executive accountability to be effective. However, they concede that where bodies or entities other than the relevant department perform functions within the purview of the Minister, ministerial responsibility can be watered down; as the Minister may not be able to effectively implement systems and procedures to ensure proper management and the efficient utilisation of allocated resources. Furthermore, this model discounts the responsibility of government officials to account.

They note that both Parliament and the Executive need to understand the rationale behind striving for an accountable government and the purpose this serves. When this is understood, effective oversight over the Executive becomes a possibility. They assert that the combination of oversight and accountability leads to the implementation of legislation and the upholding of Constitutional principles, particularly that of good governance.

Furthermore, Duresso (2013, p. 11) highlights the role of parliamentary staff in effecting oversight that leads to accountable governance. He refers to the need to strengthen staff in their oversight capacity and their ability

to perform their duties in a nonpartisan manner by being repositories of information to assist parliament in achieving its constitutional functions and accountability.

The ECA (2011, p. 51-52) infer that political opposition can play a significant role in whether government is held accountable. However, this is dependent on the space they are allowed by the parliament they operate in and whether the legislature has the ability and political will to perform effective oversight. Parliament's ability to hold government accountable, and therefore the level of accountability determines whether there is democratic and good governance within a country. This requires public participation to form an integral part of parliament's oversight mechanism, structures and operations; the level of parliamentary support offered to MPs; and the capacity of MPs to implement its oversight function. (ECA, 2011, p. 55)

Esau (2008, p. 96) emphasises that parliament is responsible for ensuring that the executive is accountable. This occurs through rigorous oversight processes of the executive's performance. However, she focuses on accountability in terms of the "value for money" principle. This encompasses whether "public money has been spent wisely" and the interests of society are met. However, executive accountability was reinforced by Parliament's ability to ensure that its recommendations for remedial or corrective actions are implemented (Esau, 2008, p. 102).

In addition, Corder et al. (1999) refer to the provisions of the South African Constitution, which mandates the executive to keep Parliament informed of matters under its control, including policies, financial information, and the activities of departments (Section 92(3)(b)). However, if this information is not provided in a useful manner, it thwarts the ability of the legislature to effectively oversee these matters and ensure accountability.

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of "the degree of the Executive's accountability to Parliament" is depicted in Figure 17:

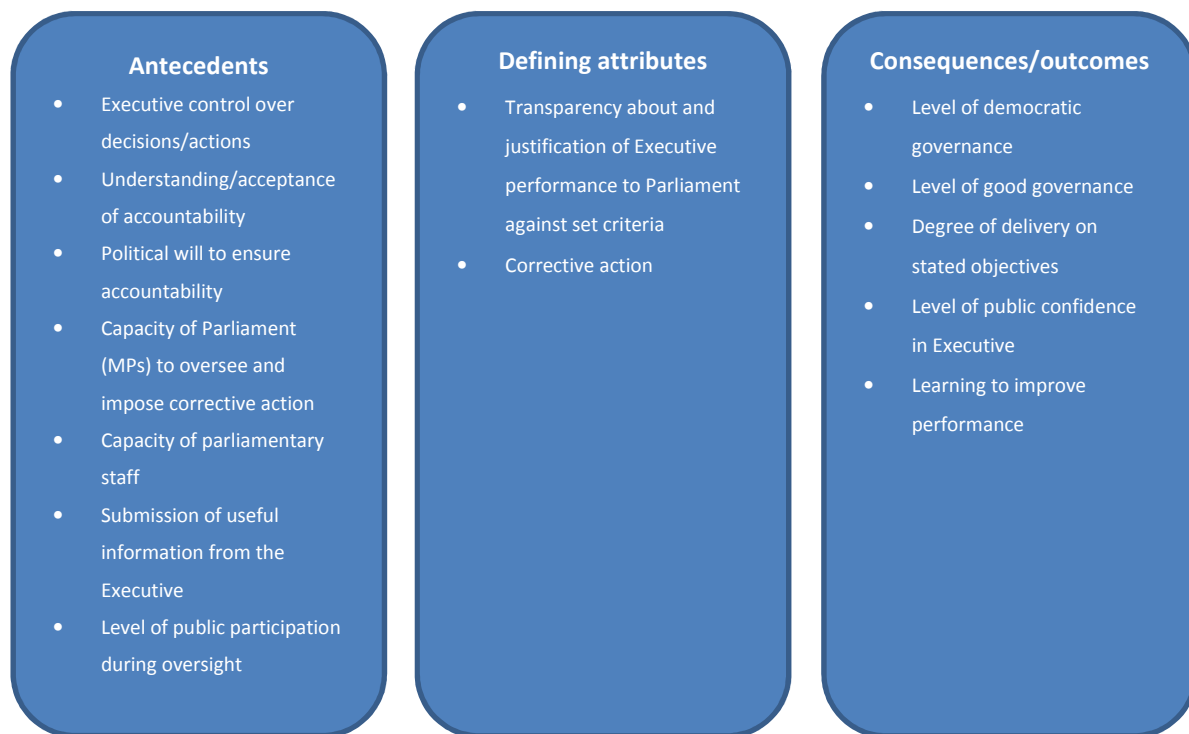


FIGURE 17: COMPONENTS OF THE “DEGREE OF THE EXECUTIVE’S ACCOUNTABILITY TO PARLIAMENT” CONCEPT BASED ON THE LITERATURE REVIEW

4.5.5 THE DEGREE OF PUBLIC PARTICIPATION

Public participation involves parliament or the executive inviting views of civil society and other stakeholders in their oversight or decision-making processes (Barkan, 2005, p. 17). According to Quick and Bryson (2016, p. 158), public participation is the process whereby interested and/or concerned stakeholders are directly or indirectly engaging with governance. This generally occurs through interactions with the creators or implementers of a particular policy, law, plan or programme. These stakeholders are usually affected by these decisions, rely on the entity for their functioning or are in a position to influence the decision. These engagements involve a process of dialogue, exchange of ideas and mutual learning that leads to a decision being made (Quick & Bryson, 2016, p. 160).

Marzuki (2015, p. 23-24) refers to public participation as the public, who are affected mentally or physically by a development plan, being allowed to actively participate in the various stages of the planning process through stakeholder engagement processes. This may include being able to define their issues of concern; make decisions about factors that affect or will affect their lives; formulate and implement policies; plan, develop and deliver services; and take action to achieve change.

Quick and Bryson (2016, p. 159-160) refer to the following factors as influencing the quality of the public participation process: the design and implementation of the participation process; the skill levels of facilitators; the selection or recruitment of participants; the degree of influence stakeholders have on decision-makers; and the time and financial resources available for public engagement. The selection or recruitment of participants determines the level of diversity and inclusion of the public. Ideally, this should provide an

opportunity for under-represented and marginalised groups to participate. However, for this to be effective, stakeholders should be identified and analysed, and conflict and the existing power struggles would need to be managed. The aim of increased inclusivity is to garner and negotiate between diverse perspectives of problems, resources and policy options (Quick & Bryson, 2016, p. 162). Marzuki (2015, p. 24) also alludes to the role of financial and time resources available in public participation processes, which significantly increases the cost of the decision-making process. He also mentions that the type of public participation method used plays a role in the level of public participation, with more traditional methods, such as public hearings, review and comment procedures being ineffective.

Furthermore, the perception of legitimacy of the process also affects how successful the process is. This involves “the adequacy of participation or representation, the technical or political workability of the decision outcomes and the procedural fairness of the process” (Quick & Bryson, 2016, p. 161). Where a process appears to have been conducted in a legitimate manner, the outcome is more likely to be accepted by interested parties.

Funk (2009, p. 172-176) highlights that the legislative requirements for public participation and transparency influences the degree and quality of public participation. He describes the historical progression of public participation requirements in rule-making subject to American administrative law. This affected the design of the public participation process, the selection of participants and the determination of interested parties. Furthermore, he refers to the role political pressure for transparent decision-making processes plays in determining the degree of public participation. This occurs as politicians apply pressure for these processes to be open to public scrutiny and comment.

Marzuki (2015, p. 22, 24-25) raises a number of conditions for public participation to be effective. Firstly, the public’s ability to engage in the decision-making process in terms of their understanding of technical reports and complex planning issues. However, he raises that government can play a role in enhancing this ability and capacity to engage through the public participation process (Marzuki, 2015, p. 33). Secondly, the degree of equal representation of individual or groups of stakeholders. Where the public does not have equal accessibility to these participation processes, this could lead to resentment among those that were not consulted and thus undermine the effectiveness of the process. In addition, the degree of divergence between individual interests and the broader public interests can be exacerbated by unequal representation. Thirdly, the type of existing legal structures can create a barrier to or discourage public participation. However, this appeared to be linked to government’s perception of what the purpose of the public participation process is. If this is not viewed as a collaborative process between citizens and government that is built on trust, cooperation and respect, then the process tends to be hindered.

According to Barkan (2005, p. 17), public participation by civil society in parliamentary processes can lead to the interests of government and that of civil society being better balanced. It can also place some constraint on the executive leading to greater accountability. Quick and Bryson (2016, p. 159-160) concur that public participation can lead to greater accountability and transparency within government but may reinforce power

differences and elitism depending on how the process is conducted. This process can also assist government to determine what is in the public's interest by hearing the views of the citizenry; thus, increasing the public's capacity to engage in democratic citizenship and developing good quality content for policies, legislation, plans and projects, as well as meeting the public's needs in a more acceptable manner. While Marzuki (2015, p. 21) refers to the importance of the public participation process for the "democratization of social values and better planning and fulfilment of public needs". He further notes that this process can assist in educating the public about government programmes to enable them to participate in decision-making processes and lead to "an efficiently better planning framework" (Marzuki, 2015, p. 22). Thus leading to more efficient resource planning and management, as managers improve their understanding of the issues and/or implications of implementing programmes (Marzuki, 2015, p. 25). Marzuki (2015, p. 22) agrees that greater public participation promotes greater transparency; therefore, reducing perceptions of inequality of power and increasing public support.

A summary of the antecedents, defining attributes and consequences/outcomes that evolved from the literature for the concept of "the degree of public participation" is depicted in Figure 18:

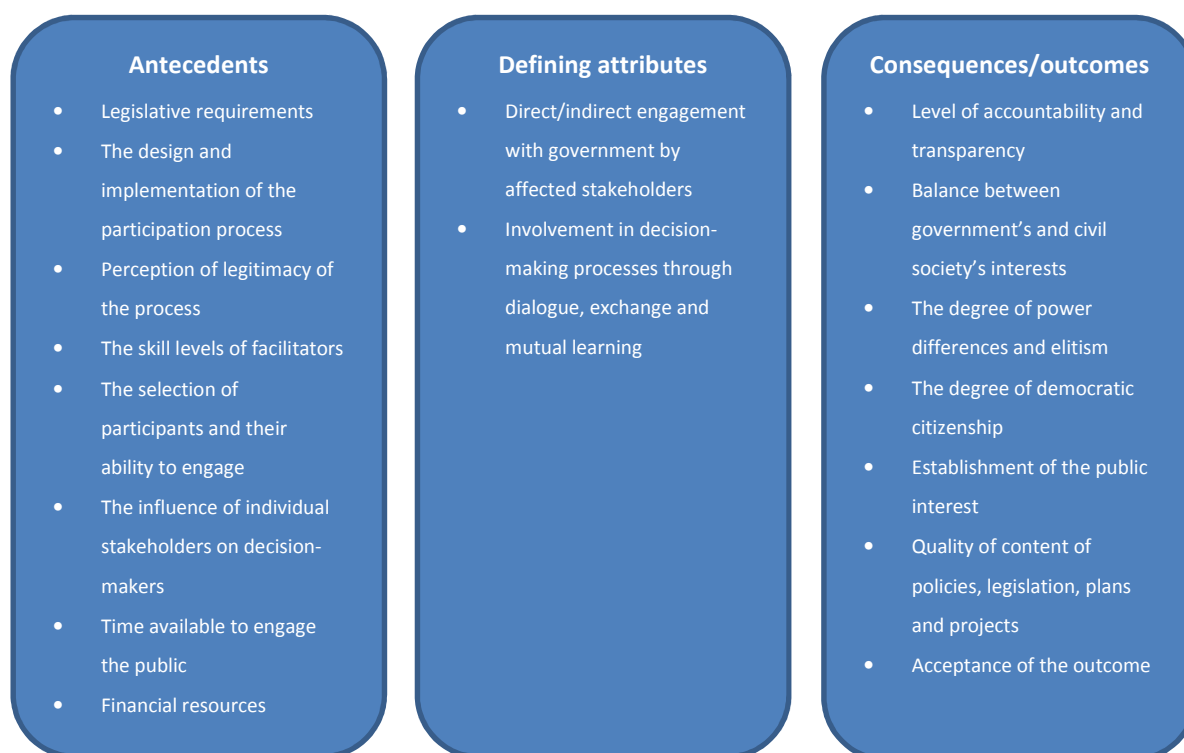


FIGURE 18: COMPONENTS OF THE "DEGREE OF PUBLIC PARTICIPATION" CONCEPT BASED ON THE LITERATURE REVIEW

4.6 CONCLUSION

This chapter explored existing literature to discover the parent discipline, governance in the public sector; the key concepts underpinning this study; and the theoretical categories linked to the five concepts revealed by the data. These eleven concepts are used to develop a theory on how parliamentary oversight over trade negotiations could be strengthened.

5 THEORY BUILDING

5.1 INTRODUCTION

The previous chapter focused on the literature review and identifying the parent discipline under which the research results fall.

This chapter provides the steps used to develop the underlying theory or causal model for this study and describes the final theory. This causal model, which includes the key variables identified through the grounded theory process and those emerging from the research problem and question, was developed using systems archetypes. Systems archetypes are common behavioural patterns in organisations and/or systems and can provide insight into the underlying structure of the system (Braun, 2002). Braun (2002) lists ten archetypes, namely:

- *Limits to Growth (aka Limits to Success)*: The premise of this archetype is that there are limits to a system, particularly in terms of natural resources, that result in diminishing returns as growth accelerates. Thus, the closer one grows to these limits, the more 'resistance' there is to ensure a balancing effect. Therefore, although exponential growth is initially possible, this tapers out and then reverses, as growth cannot exceed the set limits within the system.
- *Shifting the Burden*: This archetype looks at the tension between devising and implementing symptomatic versus fundamental solutions to resolve a problem. The former takes less effort to formulate and implement than the latter. Symptomatic solutions relieve pressure but may not address the underlying systemic issues, which tend to reappear over time and/or the solution negatively impacts on other areas in the organisation or system.
- *Eroding Goals*: This archetype focuses on the gap between a goal set in the past and the actual condition or performance happening in the present. It asserts that this gap can be closed by lowering the goal or implementing corrective action to improve the behaviour or performance. However, if the goal is continuously lowered, performance will deteriorate over time.
- *Escalation*: This archetype is characterised by two parties reinforcing behaviour; one party's actions are perceived to be a threat to the second party. The second party responds in a manner that increases this perceived threat, which then grows exponentially.
- *Success to the Successful*: This archetype pits two equally capable persons or groups against one another by devoting more resources to the one that performed better initially. This may lead to the performance gap increasing between the two by rewarding the winner to continue winning and penalising the loser.
- *Tragedy of the Commons*: This archetype characterises a situation where two or more individuals or groups within an organisation use a common resource without regard for the limitations of the resource or the needs and demands of other users. The increased demand of each user on the common resource eventually leads to the decline or collapse of this resource and reduced performance of and benefits to the individual users and the overall organisation.

- *Fixes that Fail*: This archetype's key feature is that one tends to be dealing with the same symptoms repeatedly even though a solution has been implemented. This can occur when one fixes a symptom in isolation from the rest of the system assuming that the problem is located in a subset of the system. In this scenario, the impact of the solution is that the symptom returns or worsens over a period of time.
- *Growth and Underinvestment*: This archetype is similar to the Limits to Growth archetype; however, the limit is a capability that can be increased through investment. The archetype forecasts that as the system exceeds its limit, the performance standards will be lowered, which leads to a lower perceived need for investment. In turn, the lack of investment results in lower performance and income over time; thus, reducing the amount available for investment as well as the likelihood to invest more over time.
- *Accidental Adversaries*: This archetype is similar to the Escalation archetype except that the individuals or teams were initially in an agreed partnership. However, that when these individuals or groups misinterpret the actions of the other because of misunderstandings, unrealistic expectations or performance problems, suspicion and mistrust can erode the relationship resulting in a similar outcome as in the Escalation archetype. Unlike the Escalation archetype, there is an option for the parties to return to their previous working relationship if they challenge the new mental models fuelling the deteriorating relationship and resolve the underlying misunderstandings.
- *Attractiveness Principle*: This archetype resembles the Limits to Growth archetype but includes multiple slowing actions, which are challenges to be addressed by the organisation to overcome its total limits to growth. These multiple slowing actions represent opportunities and opportunity costs to managers. There is a need for insight into the interdependencies between the slowing actions to decide how scarce resources should be utilised to reduce or remove the slowing actions.

5.2 APPROACH TOWARDS THEORY DEVELOPMENT

Initially, I used the key variables generated from the grounded theory process and the key variables from the research problem and question to develop an interrelationship diagram (ID). The purpose of an ID is to identify cause-and-effect relationships among variables to establish which are the key drivers and outcomes to ensure that an effective solution can be developed (Brassard & Ritter, 2010, p. 101). The process followed was to consider the relationship of each variable in turn with the others to determine whether that variable would cause or influence change in the other or visa versa. An arrow was then drawn from the variable that would be the cause or influence to the other that would be the outcome. Once this process was completed for each variable, the number of causes and effects per variable were counted; where the number of arrows in reflects the number of effects and the number of arrows out reflects the number of causes per variable. The key outcomes or drivers were identified as those with the most 'ins' or 'outs' respectively.

Next, the following archetype decision tree was used to identify the most appropriate systems archetype:

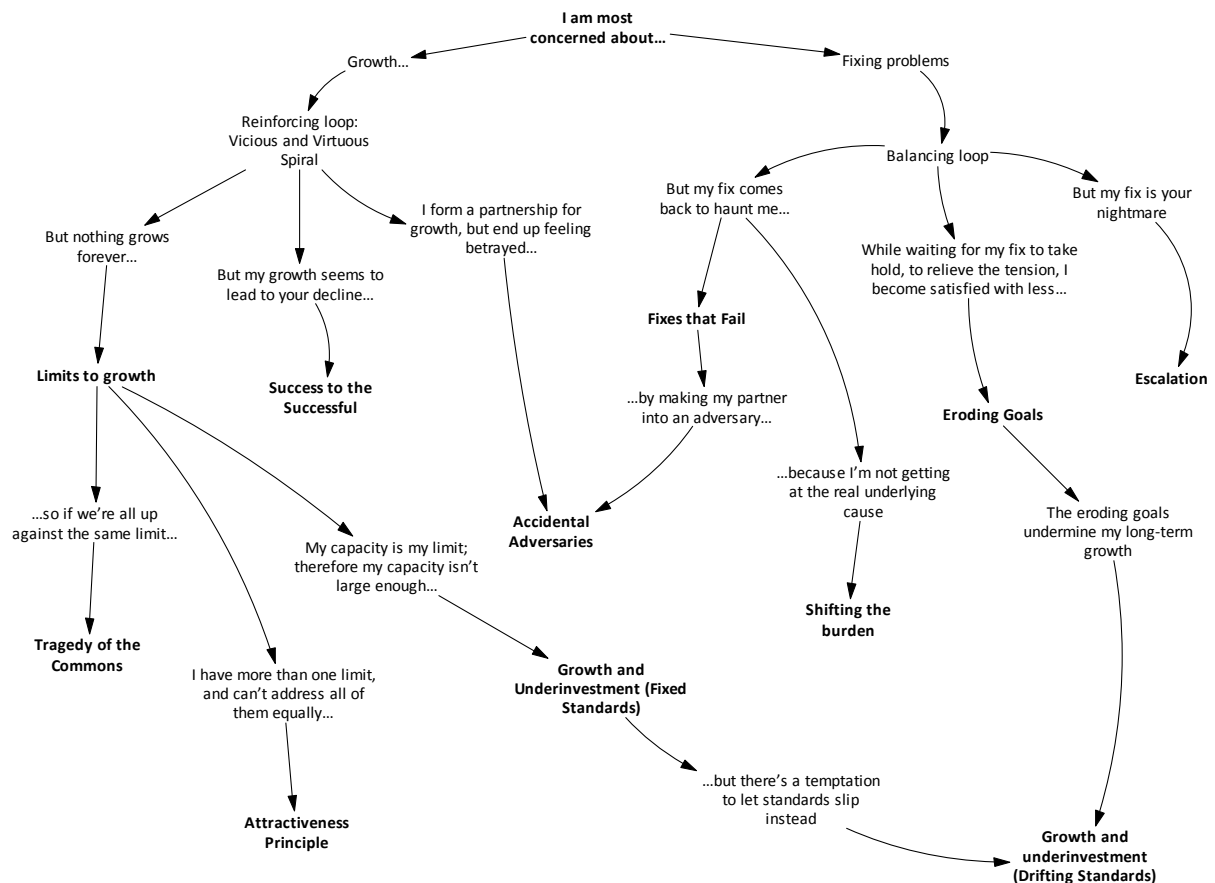


FIGURE 19: SYSTEMS ARCHETYPE DECISION TREE

Source: Shelley (2015)

Although the research objectives allude to the need to strengthening Parliament’s oversight role during international trade negotiations, the key challenge based on the data is that Parliament is relatively side-lined during the existing process. Therefore, there is a need to fix a problem or find a solution for it to become more actively involved during trade negotiations. So the right-hand side of the decision tree was followed. The growth and underinvestment archetype was identified and its causal loop diagram (see Figure 20) was used as a template to fit the emerging key variables.

The rationale for selecting this archetype was that Parliament had set a goal to actively oversee international negotiations and the Portfolio Committee on Trade and Industry had planned to regularly oversee trade negotiations, in particular. This had been done as there was a growing acknowledgement of the impact of international agreements, in particular trade agreements. However, this oversight has been either non-existent or ineffective and little has been done to invest in its ability to perform this function adequately.

5.2.1 GROWTH AND UNDERINVESTMENT ARCHETYPE

As described earlier, the growth and underinvestment archetype focuses on situations where an organisation needs to invest in itself, i.e. its resources, capabilities and core competencies, in order to meet a growing demand for its goods and/or services, where it limits its own ability to meet this demand. However, there is a long-term need to maintain this capacity through continuous investment subject to a performance standard

that may display aspects of the eroding goals archetype. In this instance, the standard or goal is being lowered as the organisation's performance falls short of this and the underlying reason for not meeting this goal is not being determined or addressed. The archetype further predicts that if the system is stretched beyond its limit, it will lower its performance standards, thus reducing the perceived need for investment. In turn, this leads to lower performance, resulting in more underinvestment over time. (Braun, 2002, p. 16-18)

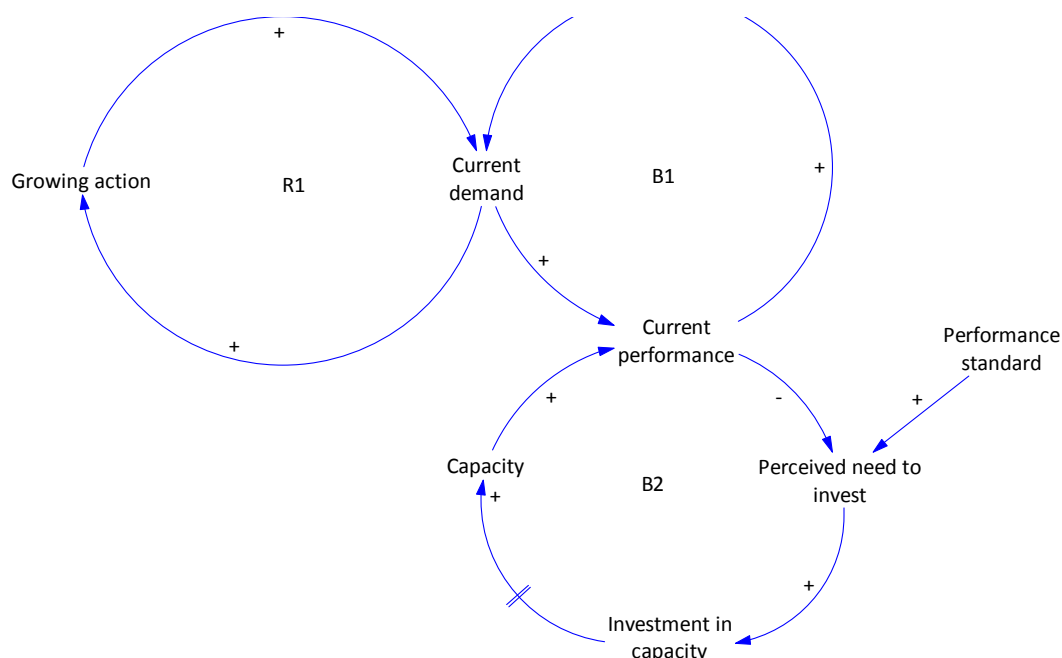


FIGURE 20: GENERIC GROWTH AND UNDERINVESTMENT ARCHETYPE

Source: Braun (2002, p. 16)

5.3 THEORY DEVELOPMENT

The following section discusses the theory development process and describes the theory to strengthen Parliament's oversight role during international trade negotiations.

5.3.1 RELATIONSHIPS AMONG VARIABLES

Each variable developed from Chapters 3 and 4 is summarised below.

Level of public accountability

The level of public accountability refers to the three arms of government being answerable to the public for their respective decisions and actions, responding to the public's needs and being liable for any wrong-doing. This involves government subjecting their decisions and actions to public scrutiny. There are a number of types of accountability relationships dependent on who is accounting to who. This includes relationships from those of a supervisory nature to political or parliamentary oversight.

The level of public accountability is dependent on the level of the state's capacity to implement control measures to ensure accountability, report their actions in a transparent manner and to oversee these actions. The existence, types and capacity of structures that are charged with monitoring performance are essential for there to be an appropriate level of public accountability. These structures should include parliamentary committees that oversee government decisions and actions in an effective manner. The nature of informal government relationships with pressure groups combined with the level of commitment to the rule of law by government and various stakeholders can influence the level of public accountability. In addition, the degree to which the public demands accountability and is permitted to participate in the monitoring and oversight of government, as well as the availability of information to the public, determines the level of public accountability.

Degree of capacity development

The degree of capacity development is defined as the change over time of the level of capacity of an individual, organisation/institution or society. This can involve the establishment of new capabilities to perform new functions, or the development of existing capabilities to improve performance. Capacity development is primarily considered to be an internal process, which may be supported by external interventions. Interventions can range from upgrading tangible resources, such as physical infrastructure, organisational structures and systems and education levels of human resources, to influencing intangible resources, such as organisational culture, social skills and values.

The degree of capacity development is dependent on the level of understanding of the context or environment within which these interventions are to occur. This ensures that appropriate interventions are being introduced that target the underlying issues. Furthermore, the commitment or ownership of the process by leadership ensures that adequate time and financial resources are provided and that there is an appropriate degree of compromise between short-term and long-term performance to allow the change to occur. Affected stakeholders or participants should also be committed to, or own the process as this influences their willingness to learn. However, their ability to learn would also affect the uptake of capacity development interventions.

As the degree of capacity development increases, the level of capacity at individual, institutional or societal level increases. Thus, the level of performance in terms of the targeted output or outcome should increase.

Level of participatory governance

The level of participatory governance is the extent to which institutional processes allow citizen engagement in decision-making, monitoring and evaluation efforts in the public sector. This largely involves the gathering of different perspectives from affected and interested stakeholders.

The level of participatory governance is influenced by a number of factors related to the institution and stakeholder dynamics. In terms of the government institution, the institutional rules for participatory

governance, political interests of officials, level of transparency and resource availability may affect the participatory processes and mechanisms provided, and the extent to which stakeholders are involved and their concerns are considered. Furthermore, the extent to which the involved institution understands the stakeholders' differentiated characteristics and environment, including power hierarchies, affects the level of participatory governance. These should be factored into and mitigated for during the development and implementation of processes. In terms of stakeholder dynamics, the existence and enforcement of civil-political rights and socio-economic stability may affect the willingness of the public, particularly the poor and marginalised, to participate. In addition, their ability to communicate with government and the time and financial costs incurred will affect their ability to participate.

As the level of participatory governance increases, the level of the public's capacity to engage and its influence on government decision-making increases. This leads to an increase in the level of social well-being and an increase in the level of trust between the state and the public. Hence, there is an increased level of ownership of outcomes, and the credibility of these outcomes increases. Ultimately, this is assumed to lead to increased levels of democracy.

Effectiveness of parliamentary oversight

The effectiveness of parliamentary oversight refers to the achievement of a stated oversight goal, which relates to the evaluation of executive decisions or actions. This should be performed in a detailed, comprehensive and direct manner leading to remedial action taken when necessary. The process is effective where there is public recognition of its legitimacy and constituency needs are addressed.

The effectiveness of parliamentary oversight is determined by the following: (i) financial and time resources; (ii) capacity of MPs and support staff; (iii) the level of transparency and access to information; (iv) the availability of oversight tools and the manner in which these are used; and (v) the level of democracy and the demand for oversight and accountability by the citizenry.

When the effectiveness of parliamentary oversight increases, the level of government's operational efficiency and effectiveness increases. Increased effectiveness of parliamentary oversight reinforces the level of transparency and increases the level of accountability; while it is usually also accompanied by increases in public participation.

Level of institutional capacity

The level of institutional capacity refers to the availability of human, financial and physical resources to effectively achieve the institution's objectives. This may also include the structures of the institution. In the case of a legislature, human resources include MPs and staff.

The level of institutional capacity is determined by the skills levels or competence of the human resources, as well as the turnover rate of these. Furthermore, the extent to which all resources are employed effectively

impacts on the level of institutional capacity. For example, where skills or physical infrastructure exists but is not utilised optimally, the level of institutional capacity is lowered. In addition, the degree of capacity development, as described above, can enhance or inhibit changes in the level of institutional capacity. Finally, the level of legislative autonomy plays a significant role in the level of institutional capacity, as this determines the extent to which institutional capacity is developed and utilised.

An increase in the level of institutional capacity could increase the effectiveness of legislative performance, particularly that of oversight. This would lead to increased levels of Executive accountability reinforcing the level of legislative autonomy, the level of good governance and the quality of democracy.

Degree of horizontal accountability

The degree of horizontal accountability is defined as oversight and enforcement by state entities that operate independently from the executive, including the legislature and the judiciary. These institutions must sanction the executive for illegal or unconstitutional actions for a high degree of horizontal accountability to exist.

The degree of horizontal accountability is determined by the level of capacity of these institutions to oversee the executive, their oversight effectiveness and their powers to sanction or impeach the executive. The effectiveness of the separation of powers scheme in a country will affect how effectively horizontal mechanisms are implemented. The level of public participation can influence the degree of horizontal accountability. This will tend to be low or ineffective where horizontal institutions of accountability are biased or captured by narrow interests. The level of public participation and perception of biased or captured institutions will affect the legitimacy of these institutions, which in turn will impact on the degree to which they hold the executive to account.

An increase in the degree of horizontal accountability leads to an improvement in the effectiveness of service delivery resulting in increased confidence in the government, as well as greater responsiveness to the needs of the public. A greater degree of horizontal accountability also leads to a higher level of rule of law and thus a greater level of governance.

Effectiveness of parliamentary oversight over trade negotiations

The effectiveness of parliamentary oversight over trade negotiations is defined as the degree to which deep investigation into the Executive's actions and decisions has been undertaken to ensure that intended targets and outcomes have been met in relation to trade negotiations. This should occur utilising a number of oversight tools such as briefings from the Executive and observation of trade negotiations. This deep investigation may be reactive or proactive and should include the ability to veto the Executive or require corrective action.

This is driven by the separation of power between Executive and Parliament. A lack of separation can lead to a situation of political pressure/discipline that undermines their independence to effectively perform oversight

over the Executive. Therefore, both the Executive and MPs must appreciate the significance of oversight and accountability to minimise political pressure or discipline that hinders oversight. There also needs to be political will to scrutinise the Executive. The extent to which opposition parties are allowed to actively influence oversight will affect how effective this function is performed. In addition, the level of capacity of MPs and the level of parliamentary support capacity in terms of the subject matter and the implications for society play a significant role in the effectiveness of oversight.

The more effective parliamentary oversight over trade negotiations is the greater Parliament's understanding of the signed trade agreement is and the more critically it will be considered for approval for ratification so that it impacts positively on national interests. Greater effectiveness will also increase the demand for transparency and compliance of the Executive and government and could improve the degree of public participation in trade negotiations. Thus, leading to greater accountability of the Executive to Parliament and improving Parliament's independence as an arm of government. However, it may lead to tenure insecurity depending on the party political environment within which oversight plays out.

Level of Members of Parliament's capacity to oversee trade negotiations

The level of MPs' capacity to oversee trade negotiations is their ability to carry out oversight functions over trade negotiations in terms of their contextual and technical know-how, political savvy, time and financial resources. This is also linked to their understanding of the importance of their oversight role.

The level of MPs' capacity to oversee trade negotiations is primarily determined by the separation of power between Executive and Parliament, similar to the "effectiveness of parliamentary oversight over trade negotiations" variable. Furthermore, the allocation to committees and other parliamentary activities affects Members' availability and/or dedication to oversee trade negotiations. Then, MPs' backgrounds, education, knowledge and experience, as well as their interest in the subject area affect the level of their capacity. This can be positively influenced through capacity development initiatives, strong levels of parliamentary support capacity and access to expert opinion. However, the turnover rate of MPs can erode overall Member capacity at the committee level.

When the level of MPs' capacity to oversee trade negotiations increases, the effectiveness of oversight over trade negotiations increase, as well as the level of parliamentary authority. This leads to an increase in the level of Executive accountability and thus an increase in good governance. However, dependent on the party political environment, this may lead to tenure insecurity for MPs. The degree of public participation may also increase, as MPs have a better appreciation of the role of engaging the public to strengthen the oversight function. Finally, this should result in trade agreements that better support national interests and an increased parliamentary ability to determine the implications of trade agreements when considering these for ratification.

Level of parliamentary support capacity for Members of Parliament

The level of parliamentary support capacity for MPs is the administrative organisation's ability to assist MPs by providing human, institutional, physical infrastructure and financial resources to perform the functions of Parliament, where financial resources include the salary and fringe benefits for MPs. This may also include time allocated for oversight; however, this tends to be driven politically.

The level of parliamentary support capacity is largely driven by the size of the legislature i.e. the institutional requirements, as well as political pressure for adequate resources. The appropriateness of the support provided is influenced by the administrative head's understanding of what type of capacity is required to fulfil parliamentary functions. The level of human resources provided is determined by who determines the processes to employ human resources, i.e. whether MPs or the Executive determine this. Furthermore, it is dependent on the number and type of staff allocated, their skills and expertise, and the training and education opportunities provided to them. However, human resources can be enhanced by utilising external technical support. In terms of financial resources, similar to the employment of human resources, the allocation thereof is dependent on who determines the budget finally. Another key driver is the ability of the administration to access relevant information.

An increased level of parliamentary support capacity for MPs should increase the level of MPs' oversight capacity and the effectiveness of performing their oversight responsibilities. This is tied to the idea that they will become less dependent on the Executive for support, which should improve the integrity of the oversight process. Therefore, the level of parliamentary authority and their ability to hold the Executive to account over time should increase.

Degree of Executive's accountability to Parliament

The degree of the Executive's accountability to Parliament can be described as the level of transparency about and justification of the Executive's decisions and/or performance to Parliament against set criteria. In addition, Parliament's ability to recommend corrective action and the Executive's willingness to implement such as far as is reasonable.

The degree of the Executive's accountability to Parliament is underpinned by a mutual understanding of separation of powers and the need for Executive accountability within a democracy. This requires an understanding of the differing roles of the Executive *vis a vis* Parliament and the institutional framework that regulates this accountability relationship. In addition, political will to ensure accountability is critical, as political personalities may curb or promote this. One of the key pillars to effect this is the level of transparency in the Executive's reporting to Parliament, as well as the level of public participation during oversight. In terms of Parliament, the degree of accountability can be influenced by the capacity of MPs and parliamentary support capacity, as well as the effectiveness of Parliament's planning. A further aspect is whether the Executive has good control of decisions and actions being taken under their respective mandates. This may be

watered down in instances where there is mixed responsibilities across government departments or actions taken by parties that are not under their direct control.

When there is greater Executive accountability to Parliament, it positively affects the level of good and democratic governance. This is due to a higher level of public scrutiny and democratic control by Parliament as the representative of the people. Thus, the level of public confidence in the Executive increases, as this increased willingness to account should be tied to a culture of responsibility within the Executive and government, which should in turn lead to a greater degree of delivery on government's stated objectives and greater alignment between the Executive's actions and the national interests.

Degree of public participation

The degree of public participation is defined as the degree to which affected stakeholders are engaged by either the Executive or Parliament in decision-making processes. This can be through either direct or indirect means in real time or offline.

The degree of public participation is often determined by the legislative requirements and/or the design and implementation of the participation process. The skill levels of facilitators, how aware they are of the affected stakeholders and their perception of the relative importance of stakeholders influence the latter. In terms of trade negotiations, this will be highly dependent on the initial mandate/position given by the Executive. The ability of the stakeholders to engage in the public participation process (i.e. access to negotiation platforms and knowledge of the issues), their relative influence on decision-makers, and their willingness to engage based on the level of trust between the Executive and stakeholders and/or the perception of legitimacy can influence the degree or quality of the public participation process. Finally, the time and financial resources available to engage affected stakeholders must fit into the timeframes of the negotiations. Therefore, the less time and financial resources available, the lower the degree of public participation.

A greater degree of public participation is expected to increase the Executive's level of accountability and transparency. It is also anticipated to ensure that the public interest is established; thus, leading to a more aligned negotiation position/buy-in from stakeholders where a better balance between the interests of government and civil society is achieved, and societal benefits and costs are spread more evenly to improve the overall quality of citizens' livelihoods.

Key drivers and outcomes

The cause-and-effect relationships among variables are depicted in the ID (see Appendix D). This was based on the findings in the data and literature review in terms of antecedents and outcomes per concept.

The key drivers of the system appear to be the level of support capacity, the degree of capacity development, the level of Members of Parliament's capacity to oversee trade negotiations and the level of institutional capacity.

The key outcomes identified are the level of accountability linked to the degree of Executive's accountability to Parliament, as well as the level of participatory governance and the level of oversight.

The cause and effect linkages are described in the next sub-section as part of the description of the theory.

5.3.2 THE THEORY

As mentioned above, the theory is based on the growth and underinvestment archetype. The linkages among the variables are depicted as follows:

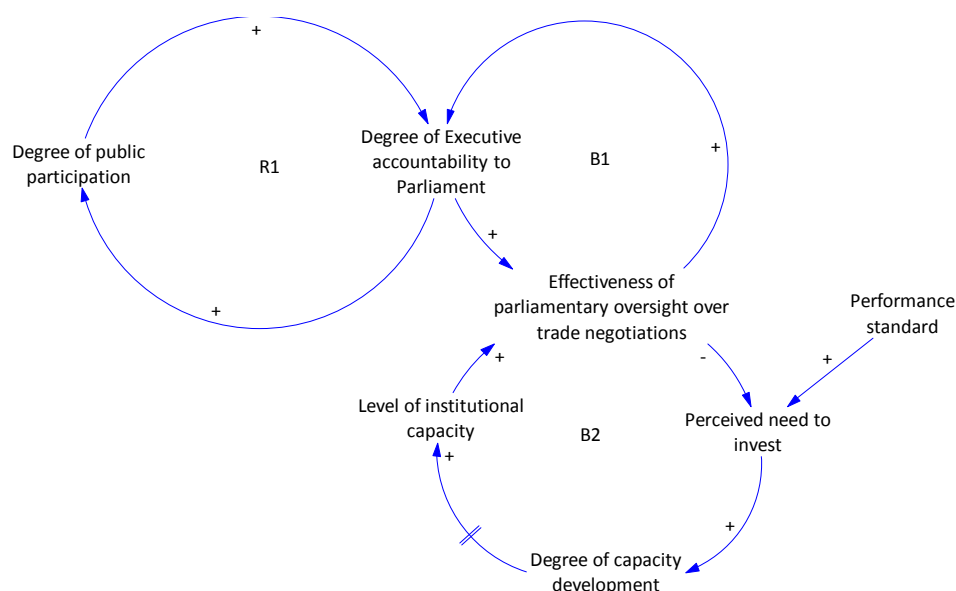


FIGURE 21: MODEL TO STRENGTHEN PARLIAMENT'S OVERSIGHT OVER TRADE NEGOTIATIONS

The degree of Executive accountability to Parliament drives the degree of public participation by allowing the public platforms to engage it on its decision-making processes. In the case of trade negotiations, where the Executive appreciates the importance of public participation, it will make greater efforts to broaden the spectrum of participants it engages and the manner and degree to which it responds to their comments. The Executive may also be more actively involved in educating the public about its processes, the trade negotiations and the implications of the trade-offs being requested.

An increase in the degree of public participation would further increase the degree of Executive accountability to Parliament. As the public would be more actively scrutinising Executive action and demanding greater accountability from it and could even lobby politicians overseeing these processes about their concerns.

One of Parliament's main performance areas is to exercise oversight over the Executive in order to hold it accountable to the people. Therefore, the more effective Parliament is at overseeing the Executive, in particular in terms of trade negotiations, the greater the degree of Executive accountability to Parliament. As Executive accountability increases, the greater pressure there is on Parliament to continue oversight to maintain this level of accountability and to meet the demand from the citizenry for such accountability.

However, if Parliament's oversight is ineffective, there will be an increased perceived need to invest to close the gap between its current performance and its expected performance based on constitutional principles and the rules of Parliament (the performance standard). However, if this performance standard is lowered, for instance due to political pressure to protect the Executive (Duresso, 2013; Friedberg & Hazan, 2012; Pelizzo & Stapenhurst, 2014), the perceived need to invest would also be lower than required. As a result, the degree of capacity development would be lower leading to a lowered level of institutional capacity, i.e. the capacity of MPs to effectively oversee trade negotiations, the parliamentary staff's capacity to support MPs in this regard and financial and other resources to enable effective oversight. Thus, Parliament's ability to effectively oversee trade negotiations would be lower and its ability to hold the Executive accountable would also be decreased. If this cycle continues, then Executive accountability in relation to Parliament would be eroded while the public's demand for greater accountability continues to increase rendering parliamentary oversight irrelevant over time.

The model and data does allude to possible ways of remedying the lack of investment. Firstly, the understanding of what oversight is and why it is important needs to be strengthened. However, this needs to occur at both the Executive and parliamentary level. Once, this is understood, there is a lower likelihood that the standard for oversight will be lowered, and thus the perceived need for investment should be affected positively. Secondly, there has to be greater strategic institutional capacity development in terms of the MPs, support staff and resources allocated for this type of oversight purpose. In this regard, partnerships with strategic external stakeholders to better understand the technical aspects and political nuances of international trade negotiations would be useful.

5.4 CONCLUSION

This chapter focused on the development of the theory or model that is emerging from the data collected and existing literature to answer the research question, namely: "How can Parliament effectively oversee developments during international trade negotiations to ensure that trade agreements support national strategic objectives?" The theory is underpinned by the Growth and Underinvestment archetype identified by Braun (2002) and seeks to solve this problem. Based on the developed theory, the Executive and MPs need to understand the importance and relevance of holding the Executive accountable for its actions in relation to international trade negotiations. Once this is clearly established, there will be an incentive to develop institutional capacity to perform oversight over this type of Executive action. This enhanced capacity will lead to more effective oversight over the Executive's involvement during international trade negotiations and thus greater accountability by the Executive to ensure that these negotiations support national strategic objectives. The next chapter evaluates the credibility of this theory and presents the key conclusions of the study, as well as areas of future research.

6 CONCLUSIONS AND IMPLICATIONS

6.1 INTRODUCTION

The previous chapter developed a theory or model that seeks to solve the problem of how to strengthen parliamentary oversight over international trade negotiations. This theory asserts that the appreciation by the Executive and MPs of the importance and relevance of executive accountability in relation to international trade negotiations will create an incentive for Parliament to develop institutional capacity to effectively oversee this type of Executive action. Thus, ensuring that these negotiations support national strategic objectives. This chapter evaluates the credibility of this theory and presents the key conclusions of the study, as well as areas of future research.

6.2 VALIDITY OF THE THEORY AND ITS LIMITATIONS

As discussed in Chapter 2.4, the validity of grounded theory is dependent on whether a researcher is able to show that his/her research process, analysis and interpretation of the data is credible, dependable, confirmable and transferable. This section discusses how I have met these validity criteria.

6.2.1 CREDIBILITY OF THE THEORY

Credibility refers to the truthfulness of the research findings in relation to the “constructed realities that exist in the minds of the inquiry’s respondents” (Siegle, n.d.). In my study, I used the following methods to ensure credibility, namely: triangulation and referential adequacy.

The purpose of triangulation is to limit random associations and to create more certainty around the findings. This can involve multiple data sources, methods of collecting data, researchers and theoretical perspectives. (Onwuegbuzie & Leech, 2007) Triangulation is intended to produce a more “rich, robust, comprehensive and well-developed” account of the study (Robert Wood Johnson Foundation, n.d.).

In this study, triangulation was used by gathering data from three sources to ensure an appropriate mix of information. In addition, interviews were considered from participants from a variety of perspectives of the trade negotiation process. This included parliamentary officials from a technical and content perspective, MPs from a variety of parties, government officials, business and researchers from external institutions. Furthermore, data was gathered from the recorded meetings of the Portfolio Committees on International Relations and Cooperation and on Trade and Industry.

The sample size of interview participants has been limited due to an inability to secure all planned interviews. Access to stakeholders, particularly government officials, has been problematic due to clashing schedules and lack of response to requests for interviews. Although the necessary permission had been sought from the Secretary to Parliament to interview parliamentary officials, the uptake was low where I do not have existing

relationships with those officials. However, as mentioned above, an effort was made to use participants from a variety of perspectives.

Constant comparisons were made between the data, other sources including extant literature, the researcher's knowledge and experience of similar situations and/or concepts to discover the relevant characteristics and qualities of the emerging concepts. Key concepts also underwent theoretical sampling to ensure that they were fully developed and saturated.

Referential adequacy, in my study, was based on Siegle's (n.d.) understanding of the manner in which material is documented, such as video-taping interviews or observations. I audio recorded interviews while taking notes of participants' responses. In one or two instances, the audio recordings failed, in which case, I referred my notes to these participants for verification of their responses.

6.2.2 DEPENDABILITY OF THE THEORY

Dependability requires that findings are consistent and could be repeated with the same respondents and under similar conditions. Siegle (n.d.) states that without dependability, credibility cannot be proven. Therefore, as credibility has been achieved, the criteria of dependability is automatically proven. An inquiry or external audit can, however, still be conducted to ensure dependability. This was performed by my supervisor, who has scrutinised the research process and the final product to assess whether the findings, interpretations and conclusions are grounded in the data. The study was also subjected to an external review process.

6.2.3 CONFIRMABILITY OF THE THEORY

Confirmability relates to researcher bias and the extent to which the findings have been derived from the data and not superimposed on the data based on the researcher's preconceived ideas. This can be checked through a confirmability audit, which is similar to the inquiry or external audit referred to above. The audit will require an adequate audit trail that should include the raw data, data reduction and analysis products, data reconstruction and synthesis products, process notes, materials relating to intentions and dispositions, and instrument development information. (Lincoln & Guba, 1985)

As I have existing experience and knowledge of the subject being studied, I used Strauss's method of focusing on the rigour of the process rather than Glaser's idea of embarking on a grounded theory study with a blank slate. I have also built an audit trail within the dissertation by discussing the research design for the grounded theory process in Chapter 2 and providing evidence of how the "effectiveness of parliamentary oversight over trade negotiations" concept was developed in Chapter 3. More examples of how this concept was developed are available in the annexures.

6.2.4 TRANSFERABILITY OF THE THEORY

Transferability refers to the applicability of the findings to other contexts. Siegle (n.d.) argues that transferability should be limited to the population but not necessarily be relevant in other contexts or on the

same context in another time period. However, Glaser (2002) is of the view that, in grounded theory, conceptualisations should be “abstract of time, place and people”. Lincoln and Guba (1985) describe thick description as a way to determine the degree to which conclusions are transferable. Simply speaking, thick description is a detailed description of experiences while gathering data and the explicit account of patterns and relationships placing these into context. The process of developing the “effectiveness of parliamentary oversight over trade negotiations concept is provided in Chapter 3 and thick description was used to describe each of the concepts developed.

6.3 IMPLICATIONS FOR POLICY AND PRACTICE

The developed theory has implications for how the Executive and Parliament relate to each other in terms of accountability, given the current parliamentary/elective system. The principle of separation of powers would underpin this relation to ensure a clear distinction between the roles of the two arms of government and that good governance is achieved. In this regard, the legislative role of ensuring accountability through effective oversight over all Executive action must be respected. However, this is difficult unless MPs gain a greater understanding of their role and drive or demand the process of capacity development to effectively oversee international trade negotiations. Therefore, a critical mass of MPs who understand the significance of their oversight role in developing the economy and the nation is required to push for appropriate training and resource allocation to strengthen this function.

In practice, the turnover of MPs should be better managed in this area, so as to ensure a measure of continuity in terms of institutional capacity, and support capacity should become more consistent, especially in terms of time and financial resource allocation. Furthermore, both staff and MPs should be trained on especially the technical aspects of trade negotiations, so as to better understand the implications of these on an agreement.

6.4 IMPLICATIONS FOR FURTHER RESEARCH

As this study broadly focused on the elements to drive the strengthening of parliamentary oversight over international trade negotiations, there is a need to identify specific mechanisms for institutional capacity development. In this regard, a comparative study in terms of how other legislatures engage with the treaty-making process and the types of capacity development mechanisms they use to enable this would be useful.

6.5 CONCLUSION

This study considered how Parliament could effectively oversee developments during international trade negotiations to ensure that trade agreements support national strategic objectives. It found that the effectiveness of oversight is often driven by the dynamics of the existing parliamentary system, the manner in which the Executive and parliamentarians are appointed and disciplined, as well as the understanding of the role of oversight and accountability. If these aspects are favourable, Parliament would have a high regard for institutional capacity to enable effective oversight and would thus invest in this. However, in the absence of

this, investment in institutional capacity, whether in skills or financial and other resources, would not be prioritised.

7 WORKS CITED

- Agyeman-Duah, B. (2007). *The Tanzanian Legislature: Assessing organizational resources and capacity*. Prepared for the African Legislatures Project Conference: Integrating Research and Policy, Democracy in Africa Research Unit, University of Cape Town, South Africa, June 4-5. Retrieved from <http://www.cssr.uct.ac.za/sites/cssr.uct.ac.za/files/Agreyman-Duah, Tanzania Paper.pdf>
- Almquist, R., Grossi, G., van Helden, G. J., & Reichard, C. (2013). Public sector governance and accountability. *Critical Perspectives on Accounting*, 24(7-8), 479-487.
- Bampton, R., & Cowton, C. J. (2002). The E-Interview. *Forum: Qualitative Social Research*, 3(2), 1-10.
- Barkan, J. (2005). *Emerging legislature or rubber stamp? The South African National Assembly after ten years of democracy*. (CSSR Working Paper No. 134) Democracy in Africa Research Unit, Centre for Social Science Research, University of Cape Town, South Africa.
- Barkan, J., Ademolekun, L., & Zhou, Y. (2004). Emerging legislatures: Institutions of horizontal accountability. In B. Levy & S. Kpundeh (Eds.), *Building State Capacity in Africa: New Approaches, Emerging Lessons* (pp. 211-255). Washington, DC, WA: World Bank Institute.
- Bhagavan, M. R., & Virgin, I. (2004). *Generic aspects of institutional capacity development in developing countries*. Stockholm, Sweden: Stockholm Environment Institute.
- Brassard, M., & Ritter, D. (2010). *The memory jogger: Tools for continuous improvement and effective planning* (2nd ed.). Salem, UT: GOAL/QPC.
- Braun, W. (2002). *The system archetypes*. Retrieved from http://www.albany.edu/faculty/gpr/PAD724/724WebArticles/sys_archetypes.pdf
- Calman, L. (n.d.). *What is grounded theory?* [Presentation] School of Nursing, Midwifery and Social Work, University of Manchester, United Kingdom. Retrieved from <http://www.groundedtheoryonline.com/what-is-grounded-theory>

Constitution of the Republic of South Africa (1996). Pretoria, South Africa: Government Printers.

Corbin, J., & Strauss, A. (2008). *Basics of qualitative research: Techniques and procedures for developing grounded theory* (3rd ed.). Thousand Oaks, CA: Sage.

Corder, H., Jagwanth, S., & Soltan, F. (1999). *Report on parliamentary oversight and accountability*.

Faculty of Law, University of Cape Town, South Africa. Retrieved from

<http://www.casac.org.za/wp-content/uploads/2015/02/Report-on-Parliamentary-Oversight-and-Accountability1.pdf>

Department for International Development. (2008). *Accountability briefing note*. A DFID Practice

Paper. Retrieved from <http://www.gsdrc.org/docs/open/innovations-in-accountability/ia4.pdf>

Department of International Relations and Cooperation. (2010). *Conclusion of international*

agreements. [Presentation] Prepared for the Treaty-making and Approval of Treaties in South

Africa Workshop, Portfolio Committee on International Relations and Cooperation, Parliament of

the Republic of South Africa dated 19 August.

Du Toit, D., Van der Walldt, G., Bayat, M., & Cheminais, J. (1998). *Public administration and*

management for effective governance. Kenwyn, South Africa: Juta & Co, Ltd.

Duresso, A. L. (2013). *Parliamentary oversight and its role in ensuring constitutional accountability:*

The case of "Caffee" Oromia. (Masters thesis, Institute of Leadership and Good Governance,

Ethiopian Civil Service University, Ethiopia). Retrieved from

[http://www.abysinnialaw.com/researches/category/15-constitutional-](http://www.abysinnialaw.com/researches/category/15-constitutional-law?download=1237:parliamentary-oversight-and-its-role-in-ensuring-constitutional-accountability-the-case-of-caffee-romia)

[law?download=1237:parliamentary-oversight-and-its-role-in-ensuring-constitutional-](http://www.abysinnialaw.com/researches/category/15-constitutional-law?download=1237:parliamentary-oversight-and-its-role-in-ensuring-constitutional-accountability-the-case-of-caffee-romia)

[accountability-the-case-of-caffee-romia](http://www.abysinnialaw.com/researches/category/15-constitutional-law?download=1237:parliamentary-oversight-and-its-role-in-ensuring-constitutional-accountability-the-case-of-caffee-romia)

Dye, J. F., Schatz, I. M., Rosenberg, B. A., & Coleman, S. T. (2000). Constant comparison method: A

kaleidoscope of data. *The Qualitative Report*, 4(1/2).

Economic Commission for Africa. (2011). *The role of parliament in promoting good governance*. Addis

Ababa, Ethiopia: United Nations ECA. Retrieved from [http://www.uneca.org/publications/role-](http://www.uneca.org/publications/role-parliament-promoting-good-governance)

[parliament-promoting-good-governance](http://www.uneca.org/publications/role-parliament-promoting-good-governance)

- Edwards, M. (2002). Public sector governance: Future issues for Australia. *Australian Journal of Public Administration*, 61(2), 51–61.
- Esau, M. V. (2008). Exploring the practice of legislative oversight by the South African Parliament through an examination of the activities of the Standing Committee on Public Accounts. *Africanus*, 38(2), 95–105.
- Everest-Phillips, M. (2012). Governance and the impact of the Commonwealth. In A. Robertson & R. Jones-Parry (Eds.), *Commonwealth governance handbook 2012/13: Democracy, development and public administration* (pp. 12–32). Cambridge, United Kingdom: Nexus Strategic Partnerships.
- Freeman, K. M. (2010). *Capacity development theory and practice: Lessons learnt from CORD and KITWOBE in Northern Uganda*. (Masters thesis, Centre for Development and Emergency Practice, School of Architecture, Oxford Brookes University, United Kingdom). Retrieved from <http://architecture.brookes.ac.uk/research/cendep/dissertations/KatherineFreeman.pdf>
- Friedberg, C., & Hazan, R. Y. (2012, July). Legislative oversight. *SUNY/CID Comparative Assessment of Parliaments (CAP) Note*. Retrieved from www.cid.suny.edu/capnotes1/LegislativeOversight_071112.pdf
- Funk, W. (2009). Public participation and transparency in administrative law: Three examples as an object lesson. *American Law Review*, 61, 171–198. Retrieved from <http://www.researchgate.net/publication/228168325>
- Glaser, B. G. (2002). Conceptualization: On theory and theorizing using grounded theory. *International Journal of Qualitative Methods*, 1(2), 23–38.
- Golafshani, N. (2003). Understanding reliability and validity in qualitative research. *The Qualitative Report*, 8(4), 597–606.
- Griffiths, R. J. (2006). Parliamentary oversight of defense in South Africa. In R. Pelizzo, R. Staphenurst, & D. Olson (Eds.), *Parliamentary Oversight for Government Accountability* (pp. 48–59). Washington, DC, WA: World Bank Institute.

- Guest, G., Namey, E. E., & Mitchell, M. L. (2013). Qualitative research: Defining and designing. In *Collecting qualitative data: A field manual for applied research* (pp. 1–40). Thousand Oaks, CA: Sage. Retrieved from http://www.sagepub.com/upm-data/48453_ch_1.pdf
- Higgins Gilley, S. (2002). *Defining effective oversight: A case study of sunset legislation at the Texas Department of Housing and Community Affairs*. (Masters thesis, Department of Political Science, Southwest Texas State University, TX). Retrieved from <https://digital.library.txstate.edu/bitstream/handle/10877/3510/fulltext.pdf?sequence=1>
- International Federation of Accountants. (2014). *International framework: Good governance in the public sector*. New York, NY: International Federation of Accountants & Chartered Institute of Public Finance and Accountancy.
- Kenney, C. D. (2000). *Reflections on horizontal accountability: Democratic legitimacy, majority parties and democratic stability in Latin America*. Prepared for the conference on Institutions, Accountability, and Democratic Governance in Latin America, Kellogg Institute for International Studies, University of Notre Dame, IN, May 8-9. Retrieved from <https://kellogg.nd.edu/faculty/research/pdfs/Kenney.pdf>
- Langaas, M., Odeck, J., & Bjørvig, K. (2007). *The concept of institutional capacity building and review of road sector projects*. Paper presented at the 23rd PIARC World Road Congress, Paris, France, September 17-21. Retrieved from www.vegvesen.no/_attachment/112627
- Lincoln, Y., & Guba, E. (1985). *Naturalistic inquiry*. Thousand Oaks, CA: Sage.
- Marzuki, A. (2015). Challenges in the public participation and the decision making process. *Sociologija I Prostor*, 201(1), 21–40.
- Maxwell, J. A. (2005). *A model for qualitative research design*. [Adapted from “Qualitative research design” for course notes] MCom in Management Practice specialising in Trade Law and Policy, Graduate School of Business, University of Cape Town, South Africa.
- Nakhjavanii, S. A. (2010). *Rules for our country, rules for our world: Prospects for enhancing parliamentary oversight of treaty-making and implementation in South Africa*. Paper presented at

- the Treaty-making and Approval of Treaties in South Africa Workshop, Portfolio Committee on International Relations and Cooperation, Parliament of the Republic of South Africa, August 19.
- Nguyen, L. D. (2012). Training for elected representatives in Vietnam: Context, approach, process. *Parliamentary Affairs*, 65(June), 640–657.
- Nijzink, L., Mozaffar, S., & Azevedo, E. (2006). Parliaments and the enhancement of democracy on the African continent: An analysis of institutional capacity and public perceptions. *The Journal of Legislative Studies*, 12(3–4), 311–335.
- O'Brien, M., Stapenhurst, R., & Prater, B. (2012). World Bank Institute's approach to parliamentary capacity strengthening. *Parliamentary Affairs*, 65(3), 593–607.
- Onwuegbuzie, A. J., & Leech, N. L. (2007). Validity and qualitative research: An oxymoron? *Quality and Quantity*, 41, 233–249.
- Parliament of the Republic of South Africa. (n.d.). *Job description: Content advisor*. [Unpublished document].
- Parliament of the Republic of South Africa. (2009a). *Oversight and accountability: Asserting Parliament's oversight role in enhancing democracy*. Cape Town, South Africa: Parliament of the Republic of South Africa. Retrieved from http://www.parliament.gov.za/content/Microsoft Word - OVAC Model - edited Word version - Replaced Diagrams,Chapter Upper case_27-Jan-09~1~1.pdf
- Parliament of the Republic of South Africa. (2009b). *Report of the Independent Panel Assessment of Parliament*. Cape Town, South Africa: Parliament of the Republic of South Africa. Retrieved from http://www.parliament.gov.za/content/The Panel for Assessment of Parliament Report_Final4_mail~1.pdf
- Parliamentary Monitoring Group. (2014). *Portfolio Committee on Trade and Industry*. Retrieved from <http://www.pmg.org.za/committees/Trade and Industry>
- Pelizzo, R., & Stapenhurst, R. (2014). Oversight effectiveness and political will: Some lessons from

West Africa. *The Journal of Legislative Studies*, 20(2), 255–261.

Portfolio Committee on International Relations and Cooperation. (2013, October 18). Report on the workshop held on the role of Parliament in treaty-making processes. *Announcements, Tablings and Committee Reports*. No. 140, 3943-3954. Cape Town, South Africa: Parliament of the Republic of South Africa.

Portfolio Committee on Trade and Industry. (2013a, January 31). Report on the Agreement on the Amendment of Annex IV and VI of the Trade, Development and Cooperation Agreement between the Republic of South Africa, on the one part, and the European Community and its Member States, on the other part, regarding certain a. *Announcements, Tablings and Committee Reports*. No. 4, 43. Cape Town, South Africa: Parliament of the Republic of South Africa.

Portfolio Committee on Trade and Industry. (2013b, November 14). Report on its oversight on regional integration efforts, intra-African and global trade from 2009 to 2013, dated 13 November 2013. *Announcements, Tablings and Committee Reports*. No. 159, 5901-5948. Cape Town, South Africa: Parliament of the Republic of South Africa.

Portfolio Committee on Trade and Industry. (2014, March 20). Report on its activities undertaken during the 4th Parliament (May 2009 – March 2014), adopted on 12 March 2014. *Announcements, Tablings and Committee Reports*. No. 33, 1698-1744. Cape Town, South Africa: Parliament of the Republic of South Africa.

Quick, K. S., & Bryson, J. M. (2016). Public participation. In C. Ansell & J. Torfing (Eds.), *Handbook on theories of governance* (pp. 158–169). Cheltenham, United Kingdom: Edward Elgar.

Robert Wood Johnson Foundation. (n.d.). *Lincoln and Guba's evaluative criteria*. Retrieved from <http://www.qualres.org/HomeLinc-3684.html>

Shelley, E. (2012). *Critical thinking: Part 1*. [Presentation] MCom in Management Practice specialising in Trade Law and Policy, Graduate School of Business, University of Cape Town, South Africa.

Shelley, E. (2015). *Theory building*. [Presentation] MCom in Management Practice specialising in

Trade Law and Policy, Graduate School of Business, University of Cape Town, South Africa.

Shenga, C. (2007). *The quality of democracy: An analysis of the Mozambican Legislature capacity and responsiveness*. Prepared for the African Legislatures Project Conference: Integrating Research and Policy, Democracy in Africa Research Unit, University of Cape Town, South Africa, June 4-5. Retrieved from http://www.cssr.uct.ac.za/sites/cssr.uct.ac.za/files/ALP_conference_paper_Mozambique.pdf

Siegle, D. (n.d.). Truthworthiness. *Educational Research Basics*. Retrieved from <http://researchbasics.education.uconn.edu/trustworthiness/>

Simister, N., & Smith, R. (2010). *Monitoring and evaluating capacity building: Is it really that difficult?* (Praxis Paper 23) International NGO Training and Research Centre. Retrieved from <http://www.intrac.org/data/files/resources/677/Praxis-Paper-23-Monitoring-and-Evaluating-Capacity-Building-is-it-really-that-difficult.pdf>

Soanes, C., & Stevenson, A. (Eds.). (2004). Oversight. In *Oxford Dictionary of English* (11th ed., p. 21). New York, NY: Oxford University Press.

Srem-Sai, J. (2014). *Parliamentary oversight in Ghana: A brief review*. Parliamentary Briefing Paper, Friedrich Ebert Stiftung Ghana.

Stapenhurst, R., & O'Brien, M. (2007). *Accountability in governance*. World Bank Institute Research Note, Washington, DC, WA. Retrieved from <http://siteresources.worldbank.org/PUBLICSECTORANDGOVERNANCE/Resources/AccountabilityGovernance.pdf>

Stoker, G. (1998). Governance as theory: Five propositions. *International Social Science Journal*, 50(155), 17–28.

Struebert, H. J., & Carpenter, D. R. (1999). *Grounded theory 1*. [Adapted from “Qualitative research in Nursing” for course notes] MCom in Management Practice specialising in Trade Law and Policy, Graduate School of Business, University of Cape Town, South Africa.

United Nations. (2015). *World public sector report 2015: Responsive and accountable public governance*. New York, NY: United Nations.

United Nations Economic and Social Council. (2007). *Participatory governance and citizens' engagement in policy development, service delivery and budgeting*. (E/C.16/200) Note by the Secretariat for the Committee of Experts on Public Administration, 6th Session, New York, NY, April 10-13.

Wampler, B., & McNulty, S. (2011). *Does participatory governance matter? Exploring the nature and impact of participatory reforms*. Washington, DC, WA: Woodrow Wilson International Center for Scholars. Retrieved from [http://www.wilsoncenter.org/publication-series/does-participatory-governance-matter%5Cnhttp://stage-wilson.p2technology.com/sites/default/files/CUSP_110108_Participatory Gov.pdf](http://www.wilsoncenter.org/publication-series/does-participatory-governance-matter%5Cnhttp://stage-wilson.p2technology.com/sites/default/files/CUSP_110108_Participatory_Gov.pdf)

Webb, P., & Roberts, K. (2014). *Effective parliamentary oversight of human rights: A framework for designing and determining effectiveness*. King's College London, University of London, United Kingdom.

Zvoma, A. (2010). *The challenges parliamentary committees face in exercising oversight functions on the executive*. Communication to the Association of Secretaries General of Parliaments, Inter-Parliamentary Union, Geneva Session, Switzerland, October. Retrieved from www.asgp.co/sites/default/files/documents//LWXCZBROFOAYLRLGOVYJOBFPDSAHCYN.doc

APPENDIX A – CONSENT FORM

STRENGTHENING PARLIAMENT'S OVERSIGHT ROLE DURING INTERNATIONAL TRADE NEGOTIATIONS: A GROUNDED THEORY APPROACH

Parliament's (the national legislature) roles are to pass legislation, oversee the Executive and ratify international agreements. However, due to the democratic principle of separation of powers, Parliament has little control over the outcomes of the negotiations which the Executive undertakes on behalf of the nation. Where an international agreement would not be in the national interest, Parliament has little power to alter the terms of the agreement and can at best ratify this with reservations or reject it once it has been tabled.

Given this background, the purpose of this research study is to determine how Parliament can effectively oversee developments in international trade negotiations to ensure that trade agreements support national strategic objectives. The study will be conducted in two-phases. The first phase develops the context of the current situation and role of Parliament during international trade negotiations. The second phase will then consider possible interventions or mechanisms that will strengthen Parliament's oversight during international trade negotiations. The two phases will be conducted within the context of grounded theory, which is a more inductive approach.

This research study forms part of the Masters programme at the Graduate School of Business of University of Cape Town: Master of Commerce in Management Practice - specialising in Trade Law and Policy.

CONSENT FORM

There are no known risks or dangers to you associated with this study. The researcher will not attempt to name you as a participant in the study, nor will she facilitate anyone else's doing so, but may refer to your position in the study with your permission.

I, _____ (name),
_____ (position), acknowledge that I am participating in this study of my own free will. I understand that I may refuse to participate or stop participating at any time without penalty. If I wish, I will be given a copy of this consent form.

May the researcher refer to your position in this study? Yes ☐ No ☐

Signature

Date

APPENDIX B – TRADE-RELATED MEETINGS OF THE PORTFOLIO COMMITTEE ON TRADE AND INDUSTRY

The Portfolio Committee on Trade and Industry held the following 29 meetings from June 2009 to March 2014 that were trade-related including the oversight of trade negotiations and the consideration of trade agreements:

| Date | Topic |
|---|--|
| Oversight over trade negotiations | |
| 16 February 2010 | Status report on recent WTO negotiations, the Southern African Customs Union review and the European Union-Southern African Development Community Economic Partnership Agreement |
| 25 November 2011 | Status report on recent WTO negotiations in preparation for the 8 th Ministerial Conference |
| 22 February 2012 | Report back on WTO 8 th Ministerial Conference outcomes |
| 16 May 2012 | Workshop on intra-African Trade and the Tripartite Free Trade Agreement |
| 14 September 2012 | Status report on the Tripartite Free Trade Agreement, the European Union-Southern African Development Community Economic Partnership Agreement, the Southern African Customs Union-India Preferential Trade Agreement, and Bulk Wine Exports |
| 13 February 2013 | Status report on the Tripartite Free Trade Agreement, the European Union-Southern African Development Community Economic Partnership Agreement and the Southern African Customs Union-India Preferential Trade Agreement |
| 1 August 2013 | Workshop on South Africa's Trade Agreements and Relations |
| 1 November 2013 | Status report on recent WTO negotiations in preparation for the 9 th Ministerial Conference |
| 26 February 2014 | Report back on WTO 9 th Ministerial Conference outcomes |
| Consideration of trade agreements | |
| 5 and 14 April 2010 | Consideration of the Southern African Customs Union-MERCOSUR Preferential Trade Agreement |
| 29 January 2013 | Consideration of the South Africa-European Union 'Cheese Agreement' |
| Briefings on trade-related matters | |
| 24-25 August 2009 | Trade Seminar on the International Trade Agreements and Negotiations |
| 6 and 20 April 2010 | Public Hearings on South Africa's Trade Policy and Strategy Framework |

| Date | Topic |
|---|--|
| 15 March 2011 | Workshop on the Southern African Customs Union |
| 19 April 2011 | Briefing by the Department of Trade and Industry on Brazil, Russia, India, China and South Africa (BRICS); India-Brazil-South Africa; and European Union Relations |
| 10 November 2011 | Briefing on Climate Change's Impact on Future Trade Relations |
| 22 February 2013 | Briefing on the International Trade Administration Commission's processes for investigations for trade remedies such as poultry dumping case |
| 24 July 2013 | Briefing by the Department of Trade and Industry on its Trade Incentives and Offerings |
| 30 July 2013 | Briefing by the Minister of Trade and Industry on the South African Customs Union's five point plan and proposed regional industrial plan |
| 23 August 2013 | Ministerial briefing on South Africa's Trade Policy and Strategy Framework |
| Reporting on trade-related matters | |
| 13 October 2013 | Briefing on core issues emerging from Trade Workshop by the Content Advisor |
| 13 November 2013 | Report of the Portfolio Committee on Trade and Industry on its Oversight on Regional Integration Efforts, Intra-African and Global Trade from 2009 to 2013 |
| 12 March 2014 | Report of the Portfolio Committee on Trade and Industry on its activities undertaken during the 4th Parliament (May 2009 – March 2014), adopted on 12 March 2014 |

APPENDIX C – ADDITIONAL DATA USED

TABLE 9: RAW DATA USED FROM INITIAL INTERVIEWS TO DEVELOP THE “EFFECTIVENESS OF PARLIAMENTARY OVERSIGHT OVER TRADE NEGOTIATIONS” CONCEPT

| Participant | Response |
|--------------------------|---|
| Member 1 | <p>"The first thing that I think is very critical is the setting up of the, what is called, the South African delegation set up by the Department of Trade and Industry. The South African delegation is composed of the department itself, Parliament in the form of the Portfolio Committee, labour organised labour, business and community organisations all of which are the NEDLAC stakeholders. We then meet together to discuss what we call ...the South African position prior to going to trade negotiations... and that involves the views of all these sectors that I mentioned. When we then go to the negotiations at the WTO, that's when we then get involved in different small discussion groups and all the time putting forward as part of our negotiations the South African position, which is agreed upon. And it has assisted us to always sharply raise issues that are of concern to the South African trade related issues. But also what I have seen happening with the rest of the South African delegates in what then usually develops into an African regional position...."</p> <p>A follow up question was asked, "And your experience within the committee, how did you find oversight interactions?", which was responded to as follows:</p> <p>"It has been a very robust kind of interaction, oversight of government, of the Executive in particular and of the department. It has been an open engagement. Very interestingly, no tensions which I think is a reflection of the kind of leadership which the committee has had in the person of Chairperson Joan Fubbs and the committee whip, comrade Bheki Radebe. But also the kind of robust but cordial engagement with the department is reflective of the Minister. I always say that a department is as good as its minister. It has reflected very positively with Minister Rob Davies. He has led by example, he has engaged with the study group, with the committee as a whole on numerous occasions and his officials in the department have always been open to engage us. So that has facilitated oversight over the Executive and over the department as a committee."</p> |
| Parliamentary official 1 | <p>"Before, during and ... post, you said of engaging stakeholders which includes Parliament, I am not aware of any engagement before going to negotiations. I am aware of engagements with other stakeholders such as your industry and labour and other organisations that may have an interest in that particular product ... via NEDLAC, via targeted meetings or engagements, especially to build an offer, there are negotiations. Or when you consider an offer from a third party, there are considerations. That's before. There is also engagement</p> |

| Participant | Response |
|---------------------------------------|--|
| | <p>during negotiations when you consider that third party's offer. Say it wants an x amount of tariff cut on a particular product or a counter-offer... Things like that. There is a mechanism of coming back in the country and consulting and then obviously a negotiation is concluded and then that agreement is tabled in Parliament for ratification. And that is the only time that Parliament, as a party or as a stakeholder ... is consulted. But even then it is not consultation in the sense that Parliament would then have a position on that concluded agreement. For example, Parliament cannot say that you've concluded a bad trade agreement therefore we want you to go back and renegotiate or ...if you can adjust on it, Parliament cannot do that. Parliament maybe agrees to what is concluded. I wouldn't say rubberstamp, they do apply their minds. But they merely agree to that. Now the question is, your question suggests that there ought to be some sort of consultation... The point I wanted to make is that ... there is no legal basis, constitutional basis for Parliament to get involved actually. Or is it ours in terms of international relations concluding of international relations and so on, be it trade agreements, be it whatever it is, lies with the Executive. So Parliament doesn't have a role in any case at least before and during."</p> |
| Parliamentary official 2 ⁶ | <p>"During the first stage, being the negotiations of agreements, in South Africa that role is still regarded as an Executive act. What that means is it is only going to be the Executive involved in negotiations of treaties. So Parliament as such has no role in the negotiations and that is the Constitution. But it does get involved once the agreement has, you know, come into play, I mean has been concluded, then it will be referred to Parliament. But during that initial stage of negotiating and also of different parties negotiating the agreements, issue different sides and different motivations for the agreement, Parliament has no role."</p> <p>A follow up question was asked, "Do you think Parliament needs to play an oversight role?", which was responded to as follows:</p> <p>"Oversight role, yes, I do believe so. With trade agreements, in particular. Trade agreements deal with issues of national interest and they deal with issues of internal domestic priorities of government. So, I believe that in the process of having negotiations going on international trade agreements, Parliament does... should have a role to play because these are the areas where directly the public is going to be affected."</p> |

⁶ This participant's initial question was modified to focus on international agreements, as she has not worked directly with trade agreements but has an understanding of the broad scope of international agreements.

| Participant | Response |
|--------------|---|
| Researcher 1 | <p>"I think my experience was fairly positive when certainly engaging with Mrs Fubbs as the chair of the Portfolio Committee on Trade and Industry... I think her personal grasp on things was very impressive and ... if she comes to a conference or a workshop on something at the DTI or even comes to NEDLAC on occasions... she's a very capable, knowledgeable person to engage with... Going to the actual committee itself is probably where it starts to get a bit mixed in its capacity... And I think that ... relates to how much certain MPs have been involved in the technical side of negotiations... because occasionally ... you get more of a concentration on the politics from some people and the ideology of trade rather than interrogating more the technical issues. So I think you get a kind of a (sigh)... And there's nothing wrong with the politics and the ideology of trade being debated in a parliamentary setting... but I think sometimes it gets confused if you try and put it all together. So I think that if you are going to have more general discussions about an overall strategy or an approach to trade policy that is where it is appropriate to engage on your strategic interest. But then if you are faced with an agreement or a very specific trade negotiating question, then I think there you would want people who have a better understanding of the technical concerns.... That means that parliamentarians have to be quite skilled and quite knowledgeable to fulfil if my ideal was that they were able to fulfil both those roles.... and I know that that is really hard."</p> |
| Researcher 2 | <p>"It hasn't in short... I can only speak from what I see ... to be honest there hasn't been any ... really robust engagement about strategy for the negotiations, about ambition, what do we want to get out of the negotiations, an offensive strategy to achieve particular outcomes, about the conduct of the negotiations, the outcome of the negotiations and an evaluation of the impact of the agreements that have been concluded because that is equally important. You know your negotiations...that it is not actually about the negotiation, it is about much more than that. You have got to fit it into your trade policy cycles. You've got your strategy. Formulate the policy. You decide to negotiate with a particular partner or whatever. You identify what you want to negotiate about. What are your objectives? Take into account what they want from us. So it's offensive-defensive stuff. Thinking longer term. Shaping the agenda, the institutional architecture. Conduct the negotiations. Conclude, implement, check, checks and balances all the way. So what has happened? Are we getting access to those markets? What's coming in? Why? How? New businesses, new investment going into expanding and taking advantage of those markets. That's part of the process. That's part of that oversight. I don't see that... It's not just about monitoring negotiations. You have to situate it within the trade policy process and monitor and provide oversight in that policy cycle focus."</p> |

TABLE 10: PROPOSITIONS DEVELOPED FROM RAW DATA FROM INITIAL INTERVIEWS TO DEVELOP THE “EFFECTIVENESS OF PARLIAMENTARY OVERSIGHT OVER TRADE NEGOTIATIONS” CONCEPT

| Participant | Raw data | Proposition |
|--------------------------|---|---|
| Member 1 | "Agreements come for ratification by Parliament but the participation of Parliament through the portfolio committee in the negotiations themselves, that I think is a weakness. And it's a weakness that we have as a committee observed..." | Lack of participation by the committee in the negotiations is a weakness. |
| Member 1 | "A lot more interaction needs to happen within parliament through the processes of trade agreement negotiations before agreements are struck and Parliament is asked to ratify." | More interaction must happen in Parliament regarding the processes of trade negotiations before agreements are signed. |
| Member 1 | "It is critical for our trade negotiators to take mandate from Parliament so that Parliament is always able to advise according to policy objectives that needs to be achieved through those trade agreements." | It is critical that trade negotiators receive a mandate from parliament. Parliament should be able to advise according to policy objectives that need to be achieved through those trade agreements. |
| Parliamentary official 1 | "Before, during and ... post, you said of engaging stakeholders it includes Parliament, I am not aware of any engagement before going to negotiations." | There are no engagements with Parliament before trade negotiations. |
| Parliamentary official 1 | "The negotiation is concluded and then that agreement is tabled in Parliament for ratification. And that is the only time that Parliament, as a party or as a stakeholder ... is consulted." | Parliament is only involved once the agreement must be ratified. |
| Parliamentary official 1 | "The point I wanted to make is that ... there is no legal basis, constitutional basis for Parliament to get involved actually. Or is it ours in terms of international relations concluding of international relations and so on, be it trade agreements, be it whatever it is, lies with the Executive. So Parliament doesn't have a role in any case at least before and during." | There is no constitutional basis for Parliament to be involved in trade negotiations. |

| Participant | Raw data | Proposition |
|--------------------------|---|--|
| Parliamentary official 2 | "So Parliament as such has no role in the negotiations and that is the Constitution. But it does get involved once the agreement has, you know, come into play, I mean has been concluded, then it will be referred to Parliament. But during that initial stage of negotiating and also of different parties negotiating the agreements, issue different sides and different motivations for the agreement, Parliament has no role." | Parliament has no role in the negotiations based on the Constitution. The agreements are referred to Parliament once it is concluded. During the initial stage of negotiations and parties issuing different sides and motivations for the negotiations, Parliament has no role to play. |
| Parliamentary official 2 | "So what should happen is that Parliament should be able to also be involved somehow, have an input into the negotiations before they see them for the first time when it comes for approval for ratification. So I think there is still that kind of gap which exists" | Parliament should have some input into the negotiations before it is concluded. |
| Parliamentary official 2 | "But my own interpretation, the clauses in the Constitution, the sections do not exclude some form of negotiation, some form of inclusion of Parliament during negotiation." | The constitutional sections do not exclude some form of inclusion of Parliament by the Executive during trade negotiations. |
| Parliamentary official 2 | "But international agreements since the Constitution says it will only come here for approval for ratification, they (Parliament) wait for that event to happen before they can air their views. So I think proactive involvement should be the way that they should rethink this method especially in terms of trade agreements." | Parliament should consider proactive involvement, particularly for trade agreements. |
| Parliamentary official 2 | "When one compares with other jurisdictions, for example the US, the US actually especially for trade agreements the President has to consult with Senate and Senate has to give ... the mandate. Austria the same thing... the Executive will do the negotiations ... but in between they must ...continuously brief Parliament while the negotiations are progressing. So that Parliament is able to give them input into these | Mandates are frameworks within which to negotiate. |

| Participant | Raw data | Proposition |
|--------------|---|---|
| | negotiations before... I mean during and they would also give mandates, frameworks, mandates are just frameworks in which to negotiate. So that kind of involvement by parliament through public participation..." | |
| Researcher 1 | "Ideally, Parliament should be involved at a much earlier point in the process. I think South Africa has been quite leading in terms of that process at a multilateral level, so the work that has been done by the DTI to involve stakeholders at WTO processes, I think is a very good example of what can be done and a very commendable example. But I don't get the sense that that is imitated at either the regional or bilateral level, where government makes a real effort to bring Parliament actually into much more of the technical discussions around the negotiations... And so ideally, I think they should be because otherwise you really just have a rubber-stamping type approach, if you are just going to come in at the point of ratification or signing off on an agreement." | Parliament should be involved in an earlier part of the process. Parliament's involvement in technical negotiations avoids the rubber-stamping approach. |
| Researcher 2 | "It hasn't in short... I can only speak from what I see ... to be honest there hasn't been any ... really robust engagement about strategy for the negotiations, about ambition, what do we want to get out of the negotiations, an offensive strategy to achieve particular outcomes, about the conduct of the negotiations, the outcome of the negotiations and an evaluation of the impact of the agreements that have been concluded because that is equally important. You know your negotiations...that it is not actually about the negotiation, it is about much more than that. You have got to fit it into your trade policy cycles. You've got your strategy. Formulate the policy. You decide to negotiate with a particular partner or whatever. You identify what you want to negotiate about. What are your objectives?" | Parliament has not performed its oversight role over trade negotiations. There has not been any really robust engagement about strategy for the negotiations, about ambition, what SA wants out of the negotiations, about an offensive strategy to achieve particular outcomes, about the conduct of the negotiations and an evaluation of the impact of the agreements that have been concluded. These discussions have to form |

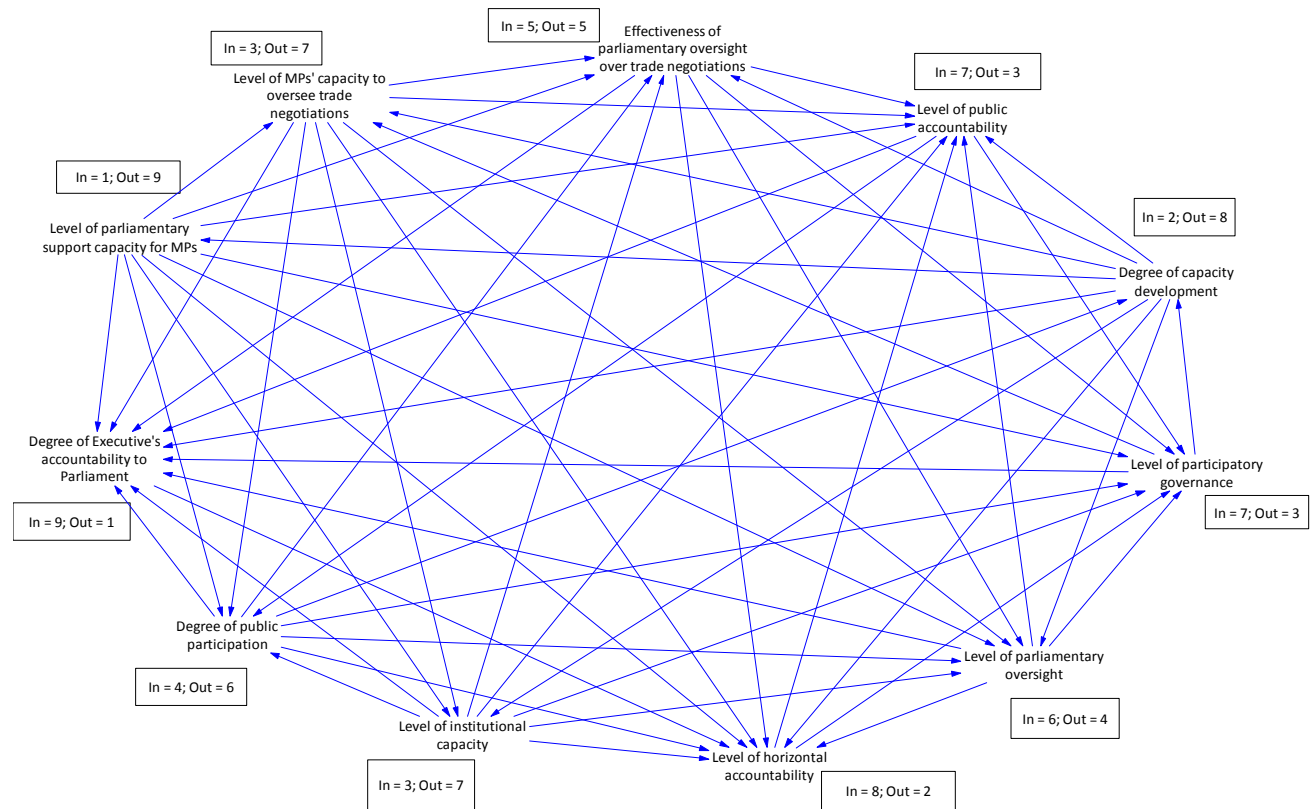
| Participant | Raw data | Proposition |
|-------------|---|--|
| | <p>Take into account what they want from us. So it's offensive-defensive stuff. Thinking longer term. Shaping the agenda, the institutional architecture. Conduct the negotiations. Conclude, implement, check, checks and balances all the way. So what has happened? Are we getting access to those markets? What's coming in? Why? How? New businesses, new investment going into expanding and taking advantage of those markets. That's part of the process. That's part of that oversight. I don't see that... It's not just about monitoring negotiations. You have to situate it within the trade policy process and monitor and provide oversight in that policy cycle focus."</p> | <p>part of the trade strategy cycle, which includes who we want to partner with and on what.</p> |

APPENDIX D – EXTRACT OF MATRIX FOR DATA ANALYSIS


| No. | Source | Data reference | Proposition | Relevance to main concern variable | Impact (High/Medium /Low) | Validity (High/Medium/ Low) | Memo |
|-----|--------------------------|---------------------------|--|---|---------------------------|-----------------------------|---|
| 1 | Parliamentary official 1 | Recording 1 - 00:25-00:37 | There are no engagements with Parliament before trade negotiations. | Parliament may not be aware of trade negotiations and is not informed about developments or rationale for trade agreement. | High | Medium | It seems like a circular argument to say that Parliament has a constitutional requirement to hold the Executive accountable (oversight) but has no constitutional right to exercise that power when it applies to the negotiation of international agreements. |
| 2 | Parliamentary official 1 | Recording 1 - 00:37-01:20 | The NEDLAC Forum is the basis for engagement with stakeholders on trade negotiations. | The NEDLAC process tends to be a closed one, which Parliament does not have access to. Access to some of the information shared here may assist in the oversight process. | Low | High | NEDLAC currently is a platform for government, organised labour, organised business and civil society to engage on policy and other matters. At what stage is NEDLAC engaged? |
| 3 | Parliamentary official 1 | Recording 1 - 00:37-01:50 | Engagement with stakeholders before trade negotiations is to determine a South African position. | As Parliament represents the people, if it has no or limited input or knowledge of the process, only narrow interests may be | Medium | High | The respondent appears to contradict himself in that he says that there is no real role available for Parliament during a trade negotiation. This is apparently due to the constitutional requirements as well as the technical nature of a trade negotiation. However, later on he refers to |

| No. | Source | Data reference | Proposition | Relevance to main concern variable | Impact (High/Medium /Low) | Validity (High/Medium/ Low) | Memo |
|-----|--------|----------------|-------------|------------------------------------|---------------------------|-----------------------------|--|
| | | | | served. | | | MPs as representatives of the people who should be aware of the impact/implications of certain decisions and be representing the interests of society by holding the Executive accountable. But it seems impossible to hold the Executive accountable after the fact, and when ratification is "almost guaranteed". Can oversight be effective if there is no possibility that ratification may be denied? |

APPENDIX E – INTERRELATIONSHIP DIAGRAM OF THE IDENTIFIED VARIABLES



APPENDIX F – TURNITIN REPORT




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The first page of the submission is displayed below. It is a research report titled 'Strengthening Procurement Oversight: South African International Trade Negotiations in Government Treasury Department'. The report is presented to the Graduate School of Business, University of Cape Town. It is in fulfillment of the requirements for the degree of Master in Commerce (Management Studies), Specialising in Trade Law and Policy, by Margot Sheldon (formerly Belling). The date is 2016 and the supervisor is Diana Whelan.

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